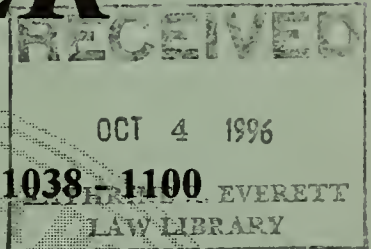


# ***NORTH CAROLINA REGISTER***

**VOLUME 11 • ISSUE 13 • Pages 1038 - 1100  
October 1, 1996**



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Final Decision Letter  
Administrative Hearings, Office of  
Commerce  
Environment, Health, and Natural Resources  
Human Resources  
State Personnel  
Rules Review Commission  
Contested Case Decisions

## **PUBLISHED BY**

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# NORTH CAROLINA REGISTER

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 (October 1996 - July 1997)

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					end of re- quired com- ment period	deadline to submit to RRC for review at next RRC meeting	first legisla- tive day of the next regular ses- sion	end of re- quired com- ment period	deadline to submit to RRC for next RRC meeting	first legisla- tive day of the next regular ses- sion	
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## EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed hindering or controlling. Time is computed according to 26 NCAC 2B .0103 and the Rules of Civil Procedure, Rule 6.

GENERAL	FILING DEADLINES	NOTICE OF RULE-MAKING PROCEEDINGS	NOTICE OF TEXT
<p>The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:</p>	<p><b>ISSUE DATE:</b> The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month closest to (either before or after) the first or fifteenth respectively that is not a Saturday, Sunday, or holiday for State employees.</p>	<p><b>END OF COMMENT PERIOD TO A NOTICE OF RULE-MAKING PROCEEDINGS:</b> This date is 60 days from the issue date. An agency shall accept comments on the notice of rule-making proceeding until the text of the proposed rules is published, and the text of the proposed rule shall not be published until at least 60 days after the notice of rule-making proceedings was published.</p>	<p><b>EARLIEST DATE FOR PUBLIC HEARING:</b> The hearing date shall be at least 15 days after the date a notice of the hearing is published.</p>
<ol style="list-style-type: none"> <li>(1) temporary rules;</li> <li>(2) notices of rule-making proceedings;</li> <li>(3) text of proposed rules;</li> <li>(4) text of permanent rules approved by the Rules Review Commission;</li> <li>(5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;</li> <li>(6) Executive Orders of the Governor;</li> <li>(7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;</li> <li>(8) orders of the Tax Review Board issued under G.S. 105-241.2; and</li> <li>(9) other information the Codifier of Rules determines to be helpful to the public.</li> </ol>	<p><b>LAST DAY FOR FILING:</b> The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.</p>	<p><b>END OF REQUIRED COMMENT PERIOD (1) RULE WITH NON-SUBSTANTIAL ECONOMIC IMPACT:</b> An agency shall accept comments on the text of a proposed rule for at least 30 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.</p>	<p><b>END OF REQUIRED COMMENT PERIOD (1) RULE WITH NON-SUBSTANTIAL ECONOMIC IMPACT:</b> An agency shall accept comments on the text of a proposed rule published in the Register and that has a substantial economic impact requiring a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after publication or until the date of any public hearing held on the rule, whichever is longer.</p>
<p><b>COMPUTING TIME:</b> In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.</p>	<p><b>EARLIEST REGISTER ISSUE FOR PUBLICATION OF TEXT:</b> The date of the next issue following the end of the comment period.</p>		<p><b>(2) RULE WITH SUBSTANTIAL ECONOMIC IMPACT:</b> An agency shall accept comments on the text of a proposed rule published in the Register and that has a substantial economic impact requiring a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after publication or until the date of any public hearing held on the rule, whichever is longer.</p>
			<p><b>DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:</b> The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.</p>
			<p><b>FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY:</b> This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.</p>



*This Section contains public notices that are required to be published in the Register or have been approved by the Codifier of Rules for publication.*

DLP:JG:TGL:jdp:tlb  
DJ 166-012-3  
96-2875

U.S. Department of Justice

Civil Rights Division

Voting Section  
P.O. Box 66128  
Washington, D.C. 20035-6128

September 3, 1996

Robert C. Cogswell, Jr., Esq.  
City Attorney  
P.O. Box 1513  
Fayetteville, North Carolina 28302-1513

Dear Mr. Cogswell:

This refers to the increase in the compensation for the mayor and councilmembers of the City of Fayetteville in Cumberland County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on July 3, 1996.

The Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Deval L. Patrick  
Assistant Attorney General  
Civil Rights Division

By:

for Elizabeth Johnson  
Acting Chief, Voting Section

*A Notice of Rule-making Proceedings is a statement of subject matter of the agency's proposed rule making. The agency must publish a notice of the subject matter for public comment at least 60 days prior to publishing the proposed text of a rule. Publication of a temporary rule serves as a Notice of Rule-making Proceedings and can be found in the Register under the section heading of Temporary Rules. A Rule-making Agenda published by an agency serves as Rule-making Proceedings and can be found in the Register under the section heading of Rule-making Agendas. Statutory reference: G.S. 150B-21.2.*

**TITLE 15A - DEPARTMENT OF ENVIRONMENT,  
HEALTH, AND NATURAL RESOURCES**

**CHAPTER 10 - WILDLIFE RESOURCES  
AND WATER SAFETY**

**SUBCHAPTER 10F - MOTORBOATS AND  
WATER SAFETY**

*Notice of Rule-making Proceedings is hereby given by the North Carolina Wildlife Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.*

**Citation to Existing Rules Affected by this Rule-Making:** *15A NCAC 10F .0317, .0339 Other rules may be proposed in the course of the rule-making process.*

**Authority for the rule-making:** *G.S. 75A-3; 75A-15*

**Statement of the Subject Matter:**

*15A NCAC 10F .0317 - Proposed no wake zone on Lake Tillery.*

*15A NCAC 10F .0339 - Proposed no wake zone on Lake James.*

**Reason for Proposed Action:** *To regulate boat speed in congested area.*

**Comment Procedures:** *The record will be open for receipt of written comments from October 1, 1996 through December 2, 1996. Such written comments must be delivered or mailed to the North Carolina Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.*

*This Section contains the text of proposed rules. At least 60 days prior to the publication of text, the agency published a Notice of Rule-making Proceedings. The agency must accept comments on the proposed rule for at least 30 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. The required comment period is 60 days for a rule that has a substantial economic impact of at least five million dollars (\$5,000,000). Statutory reference: G.S. 150B-21.2.*

## TITLE 4 - DEPARTMENT OF COMMERCE

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina State Ports Authority intends to repeal rules cited as 4 NCAC 13A .0101-.0102, .0105, .0202-.0204; 13B .0001-.0005; 13C .0001; 13D .0101; 13E .0101-.0103, .0201-.0202, .0301-.0302, .0401-.0405, .0501-.0502, .0601-.0603, .0701-.0702, .0801, .0803, .0901-.0902; 13F .0301-.0302. Notice of Rule-making Proceedings was published in the Register on March 15, 1996.

**Proposed Effective Date:** April 1, 1997

**Instructions on How to Demand a Public Hearing** (must be requested in writing within 15 days of notice): Public Hearing may be requested in writing to Thomas J. Green, Jr., North Carolina State Ports Authority, P.O. Box 9002, Wilmington, NC 28402 on or before October 16, 1996.

**Reason for Proposed Action:** Rules to be repealed relate to internal management of the agency or restate State law. Rules not required.

**Comment Procedures:** Comments may be made in writing to Thomas J. Green, Jr., N.C. State Ports Authority, P.O. Box 9002, Wilmington, N.C. on or before October 31, 1996.

**Fiscal Note:** These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

## CHAPTER 13 - STATE PORTS AUTHORITY

### SUBCHAPTER 13A - DEPARTMENTAL RULES AND GENERAL PROVISIONS

#### SECTION .0100 - ORGANIZATION OF STATE PORTS AUTHORITY

##### .0101 IDENTIFYING INFORMATION

The principal office of the State Ports Authority is located at:

North Carolina State Ports Authority  
2202 Burnette Boulevard  
P.O. Box 9002  
Wilmington, North Carolina 28402

Authority G.S. 143B-454(6).

##### .0102 FUNCTIONS

~~The State Ports Authority promotes, develops, constructs, equips, maintains and operates the harbors and seaports of North Carolina.~~

Authority G.S. 143B-453.

##### .0105 ADMINISTRATION OF THE AUTHORITY

~~In order for the Ports Authority to accomplish the purposes set forth in Rule .0102 of this Section, the Ports Authority from time to time creates certain administrative and operating sections as it deems necessary to promote and operate its terminals at Morehead City and Wilmington.~~

Authority G.S. 143B-454(7).

#### SECTION .0200 - GENERAL PROVISIONS

##### .0202 EXECUTION OF CONTRACTS

~~All contracts and instruments of conveyance having been duly approved shall be signed by the Chairman of the Board of the State Ports Authority or the chairman may delegate the signing to the executive director. The Secretary of the Board of the State Ports Authority signs with the chairman all contracts and instruments of conveyance authorized by the Ports Authority and he affixes the seal of the Ports Authority as authorized to such documents. If the chairman has delegated to the executive director the signing of contracts and instruments of conveyance, the assistant secretary will sign with the executive director such contracts and instruments of conveyance and he affixes the seal of the Ports Authority. In the absence of the secretary, the assistant secretary will sign with the chairman such contracts and instruments of conveyance and affix the seal of the Ports Authority as authorized.~~

Authority G.S. 143B-454.

##### .0203 REAL PROPERTY AND CONSTRUCTION

(a) ~~The Ports Authority owns real property in its own name and may with the approval of the Governor and Council of State acquire or dispose of real property as it deems proper to carry out its purposes. It may acquire property by purchase, negotiation, by the exercise of the right of eminent domain, such condemnation proceedings to be maintained by and in the name of the Ports Authority.~~

(b) ~~Construction funded by capital improvement appropriations of the State of North Carolina shall be subject to~~



applicable state laws as administered by the Department of Administration, Office of State Property and Construction.

(e) Construction projects, the required funding of which is no more than fifty thousand dollars (\$50,000), may be bid on an informal basis by the director of engineering. Requests for bids on an informal basis shall be by letter to parties likely to be interested in construction of the project and the letter shall give adequate instructions as to bidding proceedings, date of bid opening, and sufficient information and specifications necessary to enable a bidder to be properly informed prior to submission of his bid.

Authority G.S. 143-129; 143B-454; 143B-455; 143B-457.

#### .0204 VENDING SERVICES

In any building or facility owned, leased, or otherwise controlled by this Ports Authority in which there is located a vending facility operated by the visually handicapped or one or more coin-operated vending machines operated under contract with the Department of Human Resources for the support of said vending facilities, all pursuant to Article 3 of Chapter 111 of the General Statutes, no person, firm, or corporation shall be permitted to sell, or solicit for the sale of, any type of item which is generally available from such vending facility or machine located on the premises or to otherwise engage in direct competition therewith. During those occasional periods in which there is a substantial increase in demand for vending services on any such premises, mobile vending facilities which are operating under contract with Department of Human Resources as an extension of the coin-operated vending machine operation may be permitted to operate, all subject to the discretion and control of the director of the facility.

Authority G.S. 111-41; 143B-454(1).

### SUBCHAPTER 13B - PURCHASING PROCEDURES

#### .0001 LAWS AND RULES GOVERNING

Since the Port Authority's purchasing procedures are subject to the provisions of Article 3 of Chapter 143 of the General Statutes relating to the purchase of supplies, material and equipment by state government, the Ports Authority is governed by the rules and regulations of the division of purchase and contract, Department of Administration, as set forth in the State Purchasing Manual. A copy of this manual is located in the office of the Department of Administration, Division of Purchase and Contract, 116 West Jones Street, Raleigh, N.C., and at 2202 Burnett Boulevard, Wilmington, N.C., in the office of the purchasing officer of the State Ports Authority. A copy is also on file in the operations manager's office, 113 Arendell Street, Morehead City, N.C.

Authority G.S. 143B-453; 143B-454; 143B-465.

#### .0002 PURCHASES EXCEEDING \$5,000

Purchases amounting to five thousand dollars (\$5,000) or more, for items not on contract certification are requisitioned through the Division of Purchase and Contract in accordance with that division's prescribed procedures. Purchase orders are issued directly to the supplier for items authorized by contract certification. The Ports Authority may effect purchases through the division of purchase and contract for amounts less than five thousand dollars (\$5,000), at its discretion.

Authority G.S. 143-52; 143B-453; 143B-454; 143B-465.

#### .0003 PURCHASES NOT EXCEEDING \$5,000: CERTIFICATION CONTRACTS

Procedures for effecting purchases, for items which are available on contract certification, which are in amounts less than five thousand dollars (\$5,000) are as follows:

- (1) A purchase order will be issued by the purchasing officer when available items or their functional equivalent may be obtained in accordance with an established contract certification.
- (2) The purchase orders of the Ports Authority are serially numbered and clearly indicate that the North Carolina State Ports Authority is the issuer of the purchase order. It gives the date and the complete address of the supplier to whom it is being sent. It requests delivery to the North Carolina State Ports Authority at whichever port is appropriate, Morehead City, or Wilmington, and to the person who is to receive the goods or services ordered at the appropriate port. Instructions will state the address to which the invoice will be directed. The purchase order provides space for the quantity of the items ordered, the description, the unit price and the total price. A space is provided to show reference to the contract certification number, if applicable. The purchasing officer signs the purchase order or it may be signed by a designated person in the Morehead City office.

Authority G.S. 143B-453; 143B-454; 143B-465.

#### .0004 PURCHASES NOT EXCEEDING \$5,000: INFORMAL QUOTATIONS

If a contract certification is not in effect for a particular item, prior to the issuance of a purchase order, informal quotations for purchases which are less than five thousand dollars (\$5,000) are obtained, whenever possible. This may be done in several ways:

- (1) A written request for quotations may be made using a quotation form. The request for quotation will clearly indicate that the agency requesting the quotation is the North Carolina State Ports Authority. It will give the number of the request for quotation and the date issued, clearly indicating that it is not an order. The quotation form has

room to indicate the Port Authority's delivery requirement, quantity and description of items. Prospective vendors have space to show their delivery date, terms and price.

- (2) If it appears in the judgement of the purchasing officer that the request for quotation can better be handled by correspondence, a letter will be written to prospective suppliers requesting quotations. The responses from the suppliers become a matter of record.
- (3) When time does not permit the use of the informal quotation form or the correspondence method, quotes may be received by the purchasing officer making telephone calls to several suppliers in order to secure the desired item or items at the best possible price. The results of the telephone calls are tabulated by the purchasing officer and are retained as a matter of record.
- (4) After quotations are received, they are tabulated to determine the best available price and if the quotations are consistent with the requirements of the Ports Authority and meet the requirements of the Department of Administration, Division of Purchase and Contract, a purchase order is issued.

Authority G.S. 143B-453; 143B-454; 143B-465.

#### **.0005 PURCHASES NOT EXCEEDING \$5,000: MONTHLY ACCOUNT ORDERS**

In the discretion of the Ports Authority purchasing officer monthly account purchase orders may be issued to various suppliers for specified items. The supervisor of the parts department of the appropriate port terminal authorized to make telephone calls to the various suppliers to secure the desired items for inventory at the most advantageous price consistent with prompt delivery in accordance with the monthly account purchase order. Delivery tickets indicating receipt of goods as ordered under this method are signed by the supervisor of the appropriate parts department or his designee. Invoices for goods or services rendered are mailed monthly to the comptroller.

Authority G.S. 143B-453; 143B-454; 143B-465.

### **SUBCHAPTER 13C - SOUTHPORT BOAT HARBOR**

#### **.0001 LEASE OF SOUTHPORT BOAT HARBOR**

(a) The Southport Boat Harbor is owned by the Ports Authority. It is located at: 613 West West Street, Southport, North Carolina 28461.

(b) The harbor is leased to a private operator. A copy of this lease is on file with the Executive Director of the Ports Authority at its Wilmington office and also is on file with the State Property Officer at Administration Building,

116 West Jones Street, Raleigh, North Carolina 27602.

Authority G.S. 143B-454(3); 143B-455.

### **SUBCHAPTER 13D - PORT CHARGES TARIFF**

#### **SECTION .0100 - GENERAL PROVISIONS**

##### **.0101 PUBLICATION OF PORT CHARGES TARIFF**

The port charges tariff of the Ports Authority sets forth the charges for services rendered at its terminals and the rules and regulations to be followed by users of the terminals. In accordance with General Order No. 15 of the Federal Maritime Commission, the tariff is filed with the Federal Maritime Commission as a public document. A public copy of the tariff is on file at the following address: Federal Maritime Commission, Bureau of Compliance, 1100 L Street, NW, Washington, D.C. 20573. A copy is also on file at the North Carolina State Ports Authority, North Carolina Maritime Building Wilmington, 2202 Burnett Boulevard, Wilmington, North Carolina 28401. The tariff is adopted by reference pursuant to G.S. 150B-14(e) and shall include any later amendments and editions thereof.

Authority G.S. 143B-453; 143B-454; 150B-14.

### **SUBCHAPTER 13E - SECURITY AND SAFETY**

#### **SECTION .0100 - TITLE AND ADOPTION: REGULATIONS**

##### **.0101 TITLE**

This Subchapter relates to regulations governing traffic, parking and the registration of motor vehicles and other ordinances relating to the safety and welfare of persons using the property of the North Carolina State Ports Authority at its Morehead City and Wilmington Terminals.

Authority G.S. 143B-461.

##### **.0102 ADOPTION**

Be it resolved that pursuant to the authority vested in it by G.S. 143B-461, the Board of the North Carolina State Ports Authority adopts and records in its proceedings the following regulations of this Subchapter governing traffic, parking, and the registration of motor vehicles and other ordinances relating to the safety and welfare of persons using the property of the North Carolina State Ports Authority at its Morehead City and Wilmington Terminals. From the date of filing a copy of these regulations and ordinances in the offices of the Secretary of State and Attorney General, and providing the appropriate signs, they shall apply to and be in effect on property owned or leased by the Ports Authority at its Morehead City and Wilmington Terminals.

Authority G.S. 143B-461.



# **.0103 ORDINATION**

The provisions of this Subchapter are in accordance with G.S. 143B 461, and establish an ordinance regulating traffic upon the streets of the terminals of the North Carolina State Ports Authority at Morehead City and Wilmington and set forth other ordinances relating to the safety and welfare of persons using the property of the Ports Authority, and repeal all other ordinances and sections of ordinances in conflict herewith.

Authority G.S. 143B-461.

## **SECTION .0200 - DEFINITIONS**

### **.0201 STATUTORY DEFINITIONS**

The definitions of all terms used in these ordinances shall be those provided in G.S. 20-4.01 and other applicable sections of the General Statutes of North Carolina insofar as they are provided.

Authority G.S. 143B-461.

### **.0202 DEFINITIONS: AUTHORITY ORDINANCES**

Other terms used shall be construed as follows, unless another meaning is clearly apparent from the language or context:

- (1) ~~Authorized Emergency Vehicle.~~ Vehicles of fire departments, police vehicles, and such ambulances and emergency vehicles as are designated or authorized by the Executive Director of the North Carolina State Ports Authority;
- (2) ~~Crosswalk:~~
  - (a) ~~that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the traversable roadway;~~
  - (b) ~~any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface;~~
- (3) ~~Freight Loading Zone.~~ A space adjacent to a transit shed or a warehouse, rail tracks, open storage areas, as designated from time to time by the executive director;
- (4) ~~Official Traffic Control Devices.~~ All signs, signals, markings and devices not inconsistent with this ordinance placed or erected by the Ports Authority for the purpose of regulating, warning or guiding traffic;
- (5) ~~Park or Parking.~~ The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or

- ~~passengers;~~
- (6) ~~Passenger Loading Zone.~~ A place adjacent to a transit shed, warehouse, hardstand, or designated parking area for the exclusive use of vehicles during the loading or unloading of passengers;
- (7) ~~Pedestrian.~~ Any person afoot;
- (8) ~~Police Officer.~~ Every officer of the Port Authority's Terminal Police Departments as authorized by G.S. 143B 461, or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic or other regulations published herein;
- (9) ~~Railroad.~~ A carrier of persons or property upon cars, other than streetcars, operated upon stationary rails;
- (10) ~~Railroad Train.~~ A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except street cars;
- (11) ~~Sidewalk.~~ That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians;
- (12) ~~Stand or Standing.~~ The halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers;
- (13) ~~Stop.~~ When required, means complete cessation of movement. When prohibited, means any stopping of a vehicle except when necessary to avoid conflict with other traffic or in compliance with the direction of an officer or traffic control sign or signal;
- (14) ~~Through Street.~~ Every street or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting streets is required by law to yield right of way to vehicles on such through street in obedience to either a stop sign or a yield sign, when such signs are erected as provided in this ordinance;
- (15) ~~Traffic.~~ Pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any street for purposes of travel;
- (16) ~~Traffic Control Signal.~~ Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed;
- (17) ~~Traffic District.~~ All streets and portions of streets within the area shown on the maps of the Morehead City and Wilmington Terminals, copies of which maps are incorporated herein and made a part of these ordinances;
- (18) ~~Traffic Division.~~ The traffic division of the police departments of the Wilmington or Morehead City Terminals of the Ports Authority, or in the event a traffic division is not established,



~~then said term whenever used herein shall be deemed to refer to the police departments of the Wilmington or Morehead City Terminals of the Ports Authority;~~

- (19) ~~Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks. In addition, the term vehicle for the purpose of this ordinance shall be deemed to include all motor vehicles such as industrial forklifts and tractors and trailers being towed by such tractors.~~

Authority G.S. 143B-461.

## SECTION .0300 - TRAFFIC ADMINISTRATION

### .0301 DUTIES OF POLICE DEPARTMENTS

(a) ~~The police departments of the Wilmington and Morehead City Terminals of the North Carolina State Ports Authority shall be directly responsible for the administration of traffic.~~

(b) ~~It shall be the duty of the police departments to enforce the traffic regulations of the two terminals, to make arrests for traffic violations, to investigate accidents and to cooperate with the terminal traffic engineer and other administrative officials of the Ports Authority in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon the departments by this ordinance.~~

(c) ~~Record Keeping; General~~

- (1) ~~The police departments shall keep a record of all violations of traffic ordinances of the two terminals together with a record of the final disposition of all such alleged offenses. Such record shall be so maintained as to show all types of violations and the total of each. Said record shall accumulate during at least a five year period and from that time on the record shall be maintained complete for at least the most recent five year period.~~

(2) ~~All forms for records of violations and notices of violations shall be serially numbered. For each month and year a written record shall be kept available to the public showing the disposal of all such forms.~~

(3) ~~All such records and reports shall be public records.~~

(d) ~~It shall be the duty of the police departments to investigate traffic accidents, to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.~~

(e) ~~Whenever the accidents at any particular location become numerous, the police departments shall cooperate with the terminal traffic engineer in conducting studies of such accidents and determining remedial measures.~~

(f) ~~The police departments shall file traffic accident reports in accordance with the provisions of G.S. 20-166.1. Accident reports or cards referring to them shall be filed alphabetically by location. Such reports shall be available for the use and information of the terminal traffic engineer.~~

(g) ~~Record Keeping; Accidents, Warnings, Arrests, and Convictions~~

- (1) ~~The police departments shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions, and complaints reported for each driver, which shall be filed alphabetically under the name of the driver concerned.~~

(2) ~~The police departments shall study the cases of all the drivers charged with frequent or serious violations of the traffic laws or involved in frequent traffic accidents or any serious accident, and shall attempt to discover the reasons therefor, and may recommend to the executive director suspension of the privilege of operating a vehicle on the terminals. The executive director may suspend such privilege for any period of time he considers appropriate.~~

(3) ~~Such records shall accumulate during at least a five year period and from that time on such records shall be maintained complete for at least the most recent five year period.~~

(h) ~~Annual Traffic Report. The police departments shall annually prepare a traffic report which shall be filed with the executive director and the terminal traffic engineer. Such report shall contain information on traffic matters on the terminal as follows:~~

- (1) ~~the number of traffic accidents, the number of persons killed, the number of persons injured, and other pertinent traffic accident data;~~
- (2) ~~the number of traffic accidents investigated and other pertinent data on the safety activities of the police; and~~
- (3) ~~the plans and recommendations of the department for future traffic safety activities.~~

Authority G.S. 143B-461.

### .0302 DUTIES OF PORT MANAGERS

~~It shall be the general duty of the Port Managers to determine the installation and proper timing and maintenance of traffic control devices, to initiate engineering analyses of traffic accidents and to devise remedial measures, to initiate engineering investigation of traffic conditions, to plan the operation of traffic on the streets and roadways of the two terminals, and to cooperate with other administrative officials of the North Carolina State Ports Authority in the development of ways and means to improve traffic conditions and to carry out the additional powers and duties imposed by this ordinance.~~

Authority G.S. 143B-461.

**SECTION .0400 - ENFORCEMENT OF AND OBEDIENCE TO TRAFFIC REGULATIONS**

**.0401 ENFORCEMENT BY POLICE OFFICERS**

~~In accordance with the provisions of G.S. 143B-461, it shall be the duty of the police departments or such officers as are assigned by the chiefs of police to enforce all street traffic laws of the two terminals and all of the state vehicle laws applicable to street traffic in the two terminals.~~

*Authority G.S. 143B-461.*

**.0402 DIRECTION OF TRAFFIC BY POLICE OFFICERS**

~~Officers of the police departments or such officers as are assigned by the chiefs of police are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.~~

*Authority G.S. 143B-461.*

**.0403 OPERATION OF EMERGENCY VEHICLE**

~~(a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this Rule, but subject to the conditions herein stated:~~

- ~~(b) The driver of an authorized emergency vehicle may:~~
  - ~~(1) park or stand, irrespective of the provisions of this ordinance;~~
  - ~~(2) proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;~~
  - ~~(3) exceed the maximum speed limits so long as he does not endanger life or property;~~
  - ~~(4) disregard regulations governing direction of movement or turning in specified directions.~~

~~(c) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any said vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red or blue light visible under normal atmospheric conditions from a distance as defined in the state statutes to the front of such vehicle; except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red or blue light visible from in front of the vehicle.~~

~~(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive~~

~~with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.~~

*Authority G.S. 143B-461.*

**.0404 RIGHT OF WAY: EMERGENCY VEHICLE**

~~(a) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.~~

~~(b) This rule shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.~~

*Authority G.S. 143B-461.*

**.0405 COLLISIONS: REPORTS AND INVESTIGATIONS**

~~Reports and investigations are required in the event of collision. Reports and notices of accidents by the driver of a vehicle involved in a collision shall be filed as prescribed by G.S. 20-166.1. Copies of such reports may be obtained from the Commissioner of Motor Vehicles, Raleigh, North Carolina.~~

*Authority G.S. 143B-461.*

**SECTION .0500 - TRAFFIC CONTROL DEVICES**

**.0501 PLACEMENT AND MAINTENANCE**

~~The port managers shall place and maintain traffic control signs, signals, and devices when and as required under the traffic ordinances of the two terminals to make effective the provisions of said ordinances, and may place and maintain such additional traffic control devices as they may deem necessary to regulate traffic under the traffic ordinances of the two terminals or under state law, or to guide or warn traffic.~~

*Authority G.S. 143B-461.*

**.0502 STANDARDS AND SPECIFICATIONS**

~~All traffic control signs, signals, and devices shall conform to the specifications approved by the North Carolina State Highway Commission or resolution adopted by the governing body of the Ports Authority. All signs and signals required hereunder for a particular purpose, not~~



defined by the North Carolina State Highway Commission specifications, shall so far as practicable be uniform as to type and location throughout the terminals. All traffic control devices so erected and not inconsistent with the provisions of state law or this ordinance shall be official traffic control devices.

Authority G.S. 143B-461.

## SECTION .0600 - OPERATION OF MOTOR VEHICLES

### .0601 SPEED LIMITS

The state traffic laws regulating the speed of vehicles shall be applicable upon all streets within the two terminals, except as this ordinance, as authorized by state law, hereby declares and determines upon the basis of engineering and traffic investigation that certain speed regulations reducing state wide speed limits shall be applicable upon specified streets or in certain areas, in which event it shall be unlawful for any person to drive a vehicle at a speed in excess of any speed so declared in this ordinance when signs are in a place giving notice thereof. Based upon a traffic and engineering investigation, speed limits are established on streets, alleys, and driveways located on each of the two terminals and the speed limit, as indicated in Rules .0901(a) and .0902(a) of this Subchapter, is hereby fixed for the designated streets, alleys, and driveways, and such speed limits shall be enforceable when appropriate signs have been posted to indicate the maximum speed.

Authority G.S. 143B-461.

### .0602 VEHICLES WITH LUGS RESTRICTED

No person shall operate any tractor, crawler tractor, or other vehicle with wheels, the treads of which have lugs attached thereto, at any time upon any paved area of either terminal without the express permission of the operations manager of the terminal.

Authority G.S. 143B-461.

### .0603 ERECTION OF TRAFFIC CONTROL SIGNS

The port managers are hereby authorized and shall be responsible for erecting signs called for by Rules .0901(a) to (g) and .0902(a) to (g) of this Subchapter. The erection, placement, and size and color of signs shall be in accordance with the provisions of manual on "Uniform Traffic Control Devices for Streets and Highways."

Authority G.S. 143B-461.

## SECTION .0700 - CONTROL OF FIRE ARMS AND SMOKING

### .0701 SMOKING RESTRICTIONS

The port managers may designate areas of the two terminals where smoking is prohibited. Upon such official designation, signs shall be erected clearly defining such areas. Areas wherein smoking is prohibited are listed in Rules .0901(h) and .0902(h) of this Subchapter.

Authority G.S. 143B-461.

### .0702 FIRE ARMS PROHIBITED

It shall be unlawful for any person to possess, or carry, whether openly or concealed, any gun, rifle, pistol, dynamite cartridge, bomb, grenade, mine, powerful explosive as defined in G.S. 14-284.1, bowie knife, dirk, dagger, slingshot, loaded cane, switch blade knife, blackjack, metallic knuckles or any other weapon of like kind on either the Morehead City or Wilmington Terminals of the Ports Authority. For the purpose of this Section a self opening or switch blade knife is defined as a knife containing a blade or blades which open automatically by the release of a spring or a similar contrivance, and the above phrase "weapon of like kind" includes razors and razor blades (except solely for personal shaving) and any sharp pointed or edged instrument except unaltered nail files and clips and tools used solely for the performance of one's duty or occupation on the terminals. This Section shall not apply to the following persons: Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms or weapons, civil officers of the United States while in the discharge of their official duties, officers and soldiers of the militia and the national guard when called into actual service, officers of the state, or of any county, city, or town, including duly sworn special policemen in the employment of the Ports Authority at the two terminals, charged with the execution of the laws of the state, when acting in the discharge of their official duties.

Authority G.S. 143B-461.

## SECTION .0800 - PENALTIES AND PROCEDURE

### .0801 PENALTIES UPON CONVICTION

In accordance with G.S. 143B-461, any person convicted of a violation of any provision of this ordinance shall be punished by a fine of not more than fifty dollars (\$50.00) or by imprisonment not to exceed 30 days. Any person convicted of a violation of any provision of Chapter 20 of the General Statutes applicable to the two terminals shall be punished as therein prescribed.

Authority G.S. 143B-461.

### .0803 REGISTRATION OF VEHICLES AND GATE PROCEDURE

Every vehicle entering the premises of the North Carolina State Ports Authority must be registered by the Ports

Authority Police Department. Ports Authority employees, longshoring employees and tenants' employees will receive and display registration stickers with the proper identification, to be mounted on the left side of the front bumper of their vehicle. All other vehicles entering the premises, with the exception of emergency vehicles, will stop at the entrance guardhouse. Cargo carriers will be registered and visitors will be issued temporary gate passes. Upon leaving the terminals, vehicles will again stop, for processing out in the case of cargo carriers and to return the temporary gate passes in the case of visitors. Stopping areas will be clearly marked at each port entrance and exist.

Authority G.S. 143B-461.

## SECTION .0900 - SCHEDULES

### .0901 WILMINGTON ORDINANCE SCHEDULES

(a) The following schedule lists maximum speed limits for the Wilmington Terminal:

All Streets 15 MPH

Inside all Transit and Storage Buildings 10 MPH

All Open Berth Areas 15 MPH

(b) The following schedule lists the locations of stop signs in the Wilmington Terminal:

Myers Boulevard at North Gate House.

Northeast corner of Warehouse Road and First Street.

Northwest corner of Warehouse Road and Fourth Street.

Southeast corner of Maritime Boulevard and Transit Road.

Northwest corner of Maritime Boulevard and Fifth Street.

Southeast corner of Maritime Boulevard and Commerce Street.

Maritime Boulevard at Gate House.

Northeast corner of Industrial Road and Sixth Street.

Southwest corner of Commerce Street and Sixth Street.

Southwest corner of Industrial Road and Seventh Street.

Southeast corner of Warehouse Road and Seventh Street.

Northeast corner of Warehouse Road and Eighth Street.

Southwest corner of Industrial Road and Eighth Street.

Northeast corner of Industrial Road and Crescent Street.

Northeast corner of Warehouse Road and Ninth Street.

Southwest corner of Industrial Road and Ninth Street.

Northeast corner of Industrial Road and Tenth Street.

Northwest corner of Crescent Street and Tenth Street.

Southwest corner of Commerce Street and Tenth Street.

Northeast corner of Warehouse Road and Eleventh Street.

Southwest corner of Industrial Road and Eleventh Street.

Northeast corner of Sixth Street and Industrial Road.

Southeast corner of Eleventh Street and Industrial Road.

Northeast corner of Industrial Road and Commerce Street.

Northeast corner of Industrial Road and Maritime Blvd.

Southwest corner of Industrial Road and Maritime Blvd.

Northeast corner of Fourth Street and Industrial Road.

Southwest corner of Fourth Street and Industrial Road.

Northwest corner of South Warehouse Road and Maritime Blvd.

Southeast corner of South Warehouse Road and Fourth Street.

Northwest corner of Warehouse Road and Third Street.

Southeast corner of Warehouse Road and Third Street.

Northwest corner of Woodbine Street and Transit Road.

Northeast corner of Industrial Road and Fifth Street.

Southeast corner of Warehouse Road and Transit Road.

(c) The following schedule lists the locations of yield signs in the Wilmington Terminal:

Southeast corner of Transit Road and RR Scale Road.

Southwest corner of Transit Road and No. 1 Ramp.

Southwest corner of Transit Road and No. 2 Ramp.

Northeast corner of Transit Road and Second Street.

Southwest corner of Warehouse Road and Second Street.

Southwest corner of Transit Road and No. 3 Ramp.

Northeast corner of Transit Road and Third Street.

Northwest corner of Industrial Road and Third Street.

Southwest corner of Transit Road and No. 4 Ramp.

Northeast corner of Transit Road and Fourth Street.

Southwest corner of Transit Road and No. 5 Ramp.

Southwest corner of Transit Road and No. 6 Ramp.

Northeast corner of Transit Road and Maritime Boulevard.

West Exit of Parking Lot at Maritime Boulevard and Industrial Road.

Southwest corner of Transit Road and No. 7 Ramp.

Northeast corner of Transit Road and Seventh Street.

Northwest corner of Warehouse Road and Commerce Street.

Northwest corner of Industrial Road and Commerce Street.

Southeast corner of Fifth Street and Industrial Road.

Southeast corner of Industrial Road and Twelfth Street.

(d) The following schedule lists the locations of railroad warning signs in the Wilmington Terminal:

North side of Transit Road and North Gate Crossing.

South side of Transit Road at North Gate Crossing.

North side of Transit Road at intersection of Warehouse Road.

South side of Transit Road at intersection of Warehouse Road.

East side of Warehouse Road at intersection of Transit Road.

Northwest corner of Third Street and Industrial Road.

Southeast corner of Third Street and Warehouse Road.

Northwest corner of Fourth Street and Industrial Road.

South side of Fourth Street south of Cargo Shelter No. 1.

West side of Transit Road at Lumber Ramp Crossing.

East side of Transit Road at Lumber Ramp Crossing.

North side of Maritime Boulevard at East Lumber Yard Crossing.

South side of Maritime Boulevard at East Lumber Yard Crossing.

South side of Maritime Boulevard at Main Gate Crossing.

North side of Maritime Boulevard at Main Gate Crossing.



~~South side of Industrial Road at Twelfth Street Crossing.~~

~~North side of Industrial Road at Twelfth Street Crossing.~~

~~(e) The following schedule lists the locations of no thru traffic signs in the Wilmington Terminal:~~

~~Southwest corner of Warehouse Road and First Street.~~

~~Northeast corner of Warehouse Road and Fourth Street.~~

~~Warehouse Road.~~

~~Inside all transit and storage buildings.~~

~~(f) The following schedule lists the locations of do not enter signs in the Wilmington Terminal:~~

~~Southwest corner of Transit Road and RR Seale Road.~~

~~(g) The following schedule lists parking ordinances in the Wilmington Terminal:~~

~~(1) The following schedule lists the locations of no parking between signs areas:~~

~~Southwest corner of Transit Road and Ramp No. 1 to west side of Transit Road opposite loading door No. 6 of Transit Shed No. 1.~~

~~West side of Transit Road opposite loading door No. 4 of Transit Shed No. 2, to Northwest corner of Transit Road and Ramp No. 2.~~

~~East side of Transit Road from North end of Warehouse No. 3 to North side of Personnel Office.~~

~~East side of Transit Road from South side of Personnel Office to Northeast corner of Transit Road and Second Street.~~

~~Southeast corner of Transit Road and Second Street to East side of Transit Road opposite loading door No. 4 in Warehouse No. 1.~~

~~Southeast corner of Transit Road and Third Street to Northeast corner of Transit Road and Fourth Street.~~

~~Southeast corner of Transit Road and Maritime Boulevard to Northeast corner of Transit Road and Seventh Street.~~

~~Southwest corner of Warehouse Road and Third Street to Northwest corner of Warehouse Road and Fourth Street.~~

~~Southeast corner of Warehouse Road and Third Street to Northeast corner of Warehouse Road and Fourth Street.~~

~~(2) The following schedule lists the areas in which parking is prohibited and no parking signs will be erected:~~

~~Northwest corner of Eleventh Street.~~

~~Northwest corner of Ninth Street.~~

~~South corner of Transit Shed Number 4.~~

~~Northwest corner of Maritime Boulevard.~~

~~Open Berths 1, 2, 3, 4, 5, 6, 7, 8 and 9.~~

~~Transit Sheds T 2, T 3, T 4, T 5, T 6 and T 7.~~

~~Storage Sheds W 3, W 4 and W 5.~~

~~(h) The following schedule lists the areas in which smoking is prohibited in the Wilmington Terminal:~~

~~(1) Smoking is prohibited in all areas west of the railroad tracks along Transit Road and on the South Open Berth. Smoking will be permitted~~

~~only within designated smoking areas.~~

~~(2) Smoking is also prohibited in Storage Warehouses 1, 2, 3, and 4 and Cargo Shelter 1 and signs are posted in the following locations:~~

~~North and South ends of East and West sides of Transit Shed 1.~~

~~North and South ends of East and West sides of Transit Shed 2.~~

~~North and South ends of East and West sides of Transit Shed 3.~~

~~North and South ends of East and West sides of Transit Shed 4.~~

~~North and South ends of East and West sides of Warehouse 1.~~

~~North and South ends of East and West sides of Warehouse 2.~~

~~North and South ends of East and West sides of Warehouse 3.~~

~~North and South ends of East and West sides of Warehouse 4.~~

~~North and South ends of Cargo Shelter 1.~~

~~(i) The following schedule lists streets in the Wilmington Terminal which are one way:~~

~~Twelfth Street is limited to one way traffic with such traffic moving from Industrial Road eastbound to Pennsylvania Avenue.~~

~~Tenth Street is limited to one way traffic west bound from Commerce Street to Industrial Road.~~

~~Commerce Street is limited to one way traffic east bound from Industrial Road to Tenth Street.~~

~~Inbound traffic on the south gate access road is limited to one way traffic west bound from the south gate to Industrial Road.~~

~~The south gate exit road is limited to one way traffic east bound from Industrial Road to the River Road.~~

~~(j) The following schedule lists parking regulations in effect on the North Carolina Maritime Building—Wilmington facility:~~

~~(1) The three parking areas adjacent to the North Carolina Maritime Building, 2202 Burnett Boulevard, Wilmington, N.C., and identified as parking areas one, two and three are restricted as follows:~~

~~(A) Parking area number one immediately north of the North Carolina Maritime Building shall be by assignment only. The executive director is hereby authorized to make assignments to individuals or companies for the parking of automobiles in this area.~~

~~(B) Parking area number two paralleling the driveway immediately east of the North Carolina Maritime Building is restricted to visitors to the North Carolina Maritime Building.~~

~~(C) Parking area number three to the south of the North Carolina Maritime Building is restricted to employees of the Ports Authority or employees of tenants on the Port~~

Authority's premises or visitors and guests of the Ports Authority or its tenants.

- (2) ~~Vehicles parked in violation of the foregoing regulations may be towed away at the owner's expense.~~

Authority G.S. 143B-461.

# .0902 MOREHEAD CITY ORDINANCE SCHEDULES

(a) The following schedule lists maximum speed limits for specified streets in the Morehead City Terminal:

<u>NAME OF STREET</u>	<u>MAXIMUM SPEED LIMIT</u>
Arendell Street	20 MPH
Terminal Road	20 MPH
Warehouse Road	20 MPH
Lumber Road	20 MPH
Garage Road	20 MPH
North Gate Road	20 MPH
Storage Road	20 MPH
Barge Terminal North	20 MPH
Barge Terminal East	20 MPH
First Street	20 MPH
Second Street	20 MPH
Third Street	20 MPH
Fourth Street to Garage Street	20 MPH
Fifth Street	20 MPH
First Street North	20 MPH
Second Street North	20 MPH
Fourth Street North	20 MPH

(b) The following schedule lists the locations of stop signs in the Morehead City Terminal:

Arendell Street at Main Gate House (2 signs).  
Southeast corner of Arendell Street and Terminal Road.  
Southwest corner of Warehouse Road and Terminal Road.  
Northwest corner of First Street and Warehouse Road.  
Southwest corner of Old Transit Road and Terminal Road.  
Northwest corner of Old Transit Road and Second Street.  
Southeast corner of Old Transit Road and Second Street.  
Northeast corner of Warehouse Road and Second Street.  
Southwest corner of Warehouse Road and Second Street.  
Southeast corner of Second Street and Garage Road.  
Southeast corner of Third Street and Garage Road.  
Northwest corner of Third Street and Warehouse Road.  
Northeast corner of Garage Road and Fourth Street.  
Northeast corner of Fourth Street and Warehouse Road.

Northwest corner of Fourth Street and Old Transit Road.

Southeast corner of Fourth Street and Old Transit Road.

Southwest corner of Fifth Street and Fourth Street.

Southwest corner of Lumber Road and Fourth Street.

North Gate Road at Gate House (2 signs).

Southeast corner of Fourth Street N and North Gate Road.

Northwest corner of Fourth Street N and North Gate Road.

Southwest corner of Second Street and North Gate Road.

Northwest corner of Second Street and North Gate Road.

Northeast corner of Barge Terminal N and Second Street N.

Northeast corner of Arendell Street and Fourth Street.

Southeast corner of Arendell Street and Fourth Street.

(c) The following schedule lists the locations of yield signs in the Morehead City Terminal:

Southwest corner of First Street and Garage Road.

Northwest corner of North Gate Road and Highway 70.

Southeast corner of Terminal Road and Barge Terminal Road East.

Northeast corner of Arendell Street and Fourth Street.

Southwest corner of Arendell Street and Fourth Street.

(d) The following schedule lists the locations of railroad warning signs in the Morehead City Terminal:

East side of Fourth Street at intersection of Arendell Street.

North side of Arendell Street at intersection of Fourth Street.

East side of Terminal Road at intersection of Arendell Street.

North side of Barge Terminal East at intersection of Arendell Street.

West side of First Street N at intersection of Arendell Street.

North side of Fifth Street at Northwest corner of Warehouse 8.

West side of Fifth Street opposite west side of center of Warehouse 8.

North side of Lumber Road at intersection of Fifth Street.

Southeast corner of Fourth Street and Old Transit Road.

Northwest corner of Fourth Street and Old Transit Road.

(e) The following schedule lists the locations of no thru traffic signs in the Morehead City Terminal:

Northeast corner of Terminal Road and Arendell Street.



~~Southwest corner of North Gate Road and Second Street North.~~

~~(f) At the present, do not enter signs are not applicable to the Morehead City Terminal.~~

~~(g) The following schedule lists parking ordinances in the Morehead City Terminal:~~

~~(1) The following schedule lists the location of no parking between signs areas:~~

~~East side of Transit Shed 3 between Pier and Old Transit Road.~~

~~West side of Warehouse 10 between Old Transit Road and Northwest corner of Building.~~

~~West side of Terminal Road between Old Transit Road and Pier.~~

~~East side of Terminal Road between Old Transit Road and Pier. North side of Phosphate Drive House between Terminal Road and Pier.~~

~~North side of Old Transit Road at Tank Area between Fourth Street and Fifth Street.~~

~~Refueling area east of Warehouse 9 between Terminal Road and Fourth Street.~~

~~(2) The following rules identify parking areas established for use by employees:~~

~~(A) The following areas are designated parking areas for vehicles owned by employees of the Ports Authority and employees of the Port Authority's tenants on the Morehead City Terminal:~~

~~(i) That area immediately south of Lumber Road, bounded on the west by 5th Street, on the east by 4th Street and on the south by the glycol storage tanks;~~

~~(ii) The area immediately north of the truck scales fronting on Garage Road.~~

~~(B) Both of the foregoing areas are to be adequately marked with signs which signs will state the parking restrictions.~~

~~(h) The following schedule lists the no smoking restrictions at the Morehead City Terminal:~~

~~(1) Smoking is prohibited in all areas south of the railroad tracks along Transit Road and on the Open Berth Areas. Smoking will be permitted only within designated smoking areas.~~

~~(2) Smoking is also prohibited within Storage Warehouses 4, 5, 6, 7, 8, 9, and 10 and signs are posted in the following locations:~~

~~East and West ends of North and South sides of Transit Shed 1.~~

~~East and West ends of South side of Transit Shed 2.~~

~~East and West ends of North and South sides of Transit Shed 3.~~

~~East and West ends of North side of Warehouse 4.~~

~~East and West ends of North side of Warehouse~~

~~5.~~

~~North and South ends of East and West sides of Warehouse 6.~~

~~North and South ends of East and West sides of Warehouse 7.~~

~~North and South ends of East and West sides of Warehouse 8.~~

~~North and South ends of East and West sides of Warehouse 9.~~

~~East and West ends of North and South sides of Warehouse 10.~~

~~East and West sides and North and South ends of Transit Shed 4.~~

Authority G.S. 143B-461.

## SUBCHAPTER 13F - PERSONNEL

### SECTION .0300 - GENERAL EMPLOYMENT POLICIES

#### .0301 GENERAL

~~(a) The State Ports Authority Personnel Manual sets forth the policies and regulations concerning personnel management at the North Carolina State Ports Authority. Its purpose is to assure fairness and equality in the handling of all personnel matters. Should changes or additions in policies be required, new supplements will be issued for inclusion in the manual.~~

~~(b) Major sections of the manual are:~~

~~(1) Equal Employment Opportunity Policy Statement and Sexual Harassment Policy Statement;~~

~~(2) general employment policies;~~

~~(3) pay plan;~~

~~(4) leave and separation;~~

~~(5) employee relations;~~

~~(6) drug testing program.~~

~~(c) Copies of the manual will be issued to each department head and to each first line supervisor.~~

Authority G.S. 143B-454(5); 150B-14.

#### .0302 PERSONNEL QUESTIONS

~~Any questions concerning personnel matters should be directed to the Personnel Officer of the Ports Authority at the following address:~~

~~Personnel Officer~~

~~North Carolina State Ports Authority~~

~~P.O. Box 9002~~

~~Wilmington, North Carolina 28402~~

Authority G.S. 143B-454(5).

**TITLE 10 - DEPARTMENT OF HUMAN  
RESOURCES**

**SECTION .0200 - CONTESTED CASES:  
ADMINISTRATIVE REVIEWS: APPEALS  
HEARINGS**

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the Department of Human Resources, Division of Vocational Rehabilitation Services intends to amend rules cited as 10 NCAC 20B .0204, .0205, .0206, .0208, .0209, .0210, .0214, .0218, .0222, .0224, .0226, .0227; 20C .0603. Notice of Rule-making Proceedings was published in the Register on July 15, 1996.

**Proposed Effective Date:** April 1, 1997

**A Public Hearing** will be conducted at 6:00 p.m. on October 16, 1996 at the Main Conference Room, Division of Vocational Rehabilitation Services, 805 Ruggles Drive, Dorothea Dix Campus, Raleigh, NC.

**Reason for Proposed Action:**

10 NCAC 20B .0204, .0205, .0206, .0208, .0209, .0210, .0214, .0218, .0222, .0224, .0226, and .0227 - are being amended to clarify that the state plan includes the State Plan for Independent Living Services and to indicate that certain duties related to the appeals process, which were previously performed by the Division's Deputy Director, will now be performed by the Chief of Operations as the Division no longer has a Deputy Director position, to clarify language, and to remove reference to subpoenas in .0214 as the Division does not have authority to issue subpoenas.

10 NCAC 20C .0603 - is being amended because the rule does not meet all the requirements of the final federal regulation on the order of selection for service process. The current priority No. Three for "individuals being served by a program designed to help individuals transition from school to work" does not meet the requirement that priority be based on severity of disability.

**Comment Procedures:** Comments may be presented orally or in writing at the hearing. Oral statements may be limited at the discretion of the hearing officer. Written comments may also be submitted until October 31, 1996 to Jackie Stalnaker, Division of Vocational Rehabilitation Services, P.O. Box 26053, Raleigh, NC 27611. To obtain additional information or indicate need for alternative communication format contact Ms. Stalnaker in writing or by phone (919) 733-3364 or TDD (919) 733-5924. In addition, a fiscal note is available upon written request from the same address.

**Fiscal Note:** These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

**CHAPTER 20 - VOCATIONAL REHABILITATION**

**SUBCHAPTER 20B - PROCEDURE**

**.0204 DIVISION ACTIONS IN RESPONSE  
TO REQUEST**

(a) Upon receipt of a request for an appeals hearing, the regional director shall immediately forward the original request to the division's ~~deputy director~~ Chief of Operations for appointment of a hearing officer to conduct the appeals hearing.

(b) If the individual has requested an administrative review in addition to an appeals hearing, the regional director shall:

- (1) make a decision to conduct the administrative review or appoint a designee to conduct the administrative review who:
  - (A) has had no previous involvement in the issues currently in controversy;
  - (B) can conduct the administrative review in an unbiased way; and
  - (C) has a broad working knowledge of the division's policies and procedures and the State Plan for Vocational Rehabilitation Services or Independent Living Services (as appropriate); and (state plan); and
- (2) proceed with, or direct the designee to proceed with an administrative review according to the provisions of Rules .0205, .0208, and .0209 of this Section.

(c) The regional director shall send the applicant or client written acknowledgment of receipt of the request and inform the individual that additional information will be sent regarding the administrative review ~~and/or appeals hearing~~ and appeals hearing or only the appeals hearing.

(d) The regional director shall provide the Client Assistance Program with a copy of the request and the response to the request.

*Authority G.S. 143-545A; 150B-1; 34 C.F.R. 361.48.*

**.0205 SCHEDULING AND NOTICE OF  
ADMINISTRATIVE REVIEW**

(a) If an administrative review is to be conducted, the regional director or designee shall:

- (1) set a date, time and place for the administrative review;
- (2) send written notification by certified mail to the applicant or client and the individual's parent, guardian or representative, as appropriate, of the date, time and place for the administrative review;
- (3) advise the applicant or client in the written notice that a hearing officer will be appointed by the ~~deputy director~~ Chief of Operations to conduct a hearing if the matter is not resolved in the administrative review and that the applicant or client will also receive a written notice from the hearing



officer regarding the formal appeals hearing which will be held after the administrative review; and

- (4) notify the Director of the Client Assistance Program (CAP) and other individuals to be involved in the administrative review of the request and the date, time and place for the administrative review.

This notification may be by phone or in writing.

(b) Prior to the administrative review, the regional director or designee shall review all previous decisions and casework related to the applicant or client and seek whatever consultation, explanation, documentation, or other information that is deemed necessary, utilizing the division's CAP Director as appropriate.

*Authority G.S. 143-545A; 150B-1; 34 C.F.R. 361.48.*

#### **.0206 APPOINTMENT OF HEARING OFFICER**

Upon receipt of the applicant's or client's request for an appeals hearing from the regional director, the ~~deputy director~~ Chief of Operations shall arrange for the appointment of an impartial hearing officer who is in the pool of persons qualified as defined in P.L. 102-569, Section 7(28) and who is mutually agreed upon by the Director and the individual or the individual's representative.

*Authority G.S. 143-545A; 150B-1; P.L. 102-569.*

#### **.0208 ADMINISTRATIVE REVIEW**

(a) Within 15 days of the original request for an administrative review by the applicant or client, the regional director or designee shall hold the administrative review with the applicant or client; the individual's parent, guardian or representative, as appropriate; the CAP Director, as appropriate; and other individuals deemed necessary by the regional director or designee.

(b) Within five working days of the administrative review, the regional director or designee shall make a decision and notify the applicant or client and others using the following procedures:

- (1) compile a written report of the administrative review outlining the proposes of the administrative review, the participants, the decision that was reached, and the rationale for the decision.
- (2) send the written report containing the decision to the applicant or client by certified mail with return receipt requested, with a copy being placed in the individual's official case record, and copies being forwarded to the ~~deputy director~~ Chief of Operations and the CAP director; and
- (3) provide instructions to the applicant or client of steps that may be taken in response to the decision and the deadline for the responses. A form indicating agreement with the decision and requesting that the appeals hearing be cancelled shall be included for the applicant's or client's signature if the individual agrees with the deci-

sion.

*Authority G.S. 143-545A; 150B-1; 34 C.F.R. 361.48.*

#### **.0209 RESPONSE TO ADMINISTRATIVE REVIEW DECISION**

(a) If the applicant or client is satisfied with the decision resulting from the administrative review, the individual shall sign the form described in Rule .0208(b)(3) of this Section and submit it to the regional director within five days of receipt of the decision. The regional director shall inform the ~~deputy director~~ Chief of Operations of the request to cancel the appeals hearing immediately and forward the form to the ~~deputy director~~ Chief of Operations who shall submit it to the hearing officer.

(b) If the hearing officer does not receive a written request from the applicant or client that the hearing be cancelled, the hearing shall be conducted as scheduled unless negotiations produce a settlement that is satisfactory to both parties prior to the hearing.

(c) If the hearing is cancelled, the hearing officer shall send the applicant or client and the division written notice of the cancellation in the same manner as required for notice of the hearing in Rule .0207(d) of this Section. A copy of the notice of cancellation shall be sent to the Client Assistance Program.

*Authority G.S. 143-545A; 150B-1; 34 C.F.R. 361.48.*

#### **.0210 ADMINISTRATIVE REVIEW BY CHIEF OF OPERATIONS**

In situations where the issue currently in controversy involves action taken by the central office of the division, the ~~deputy director~~ Chief of Operations or a designee of the ~~deputy director~~ Chief of Operations shall be responsible for the duties prescribed for the regional director in these rules.

*Authority G.S. 143-545A; 150B-1; 34 C.F.R. 361.48.*

#### **.0214 PRE-HEARING CONFERENCE**

(a) Upon notice to all parties, the hearing officer may instruct the parties to participate in a pre-hearing conference.

(b) The conference shall be informal in nature.

(c) The conference shall be noted in the notice of hearing or in a subsequent notice if a conference is later determined to be necessary by the hearing officer.

(d) The purpose of the conference will be to discuss:

- (1) the possibility of simplification of issues,
- (2) stipulation of facts or findings,
- (3) identification of areas where evidence will be needed,
- (4) Indication of discovery, and ~~discovery or subpoenas needed, and~~
- (5) any other matters which will reduce costs or save time or otherwise aid expeditious disposition of the case.

Authority G.S. 143-545A; 150B-1; 34 C.F.R. 361.48.

**.0218 DISQUALIFICATION OF HEARING OFFICER**

(a) If at any time the hearing officer believes he or she cannot conduct the appeals hearing in a fair and impartial manner, the hearing officer shall submit to the ~~deputy director~~ Chief of Operations a written statement indicating why he or she should be disqualified from the case. Submission of the statement shall disqualify the hearing officer. The ~~deputy director~~ Chief of Operations shall inform all parties of the disqualification and the reasons therefor.

(b) If a party to the case believes that the hearing officer of record cannot conduct the hearing in a fair and impartial manner, the party shall submit an affidavit to the hearing officer for consideration. The hearing officer shall determine the matter as part of the record in the case. ~~ease, and this determination shall be subject to judicial review at the conclusion of the proceeding.~~

(c) When a hearing officer is disqualified or it is impracticable for the hearing officer to proceed with the hearing, another hearing officer shall be assigned by the ~~deputy director~~ Chief of Operations to proceed with the case. However, if it is shown to the ~~deputy director~~ Chief of Operations or the newly assigned hearing officer that substantial prejudice to any party will result from continuation of the case then either:

- (1) the case shall be dismissed without prejudice; or
- (2) all or part of the case shall be repeated as necessary to substantially prevent or substantially remove the prejudice. The ~~deputy director~~ Chief of Operations shall promptly inform all parties of the decision to assign a new hearing officer, that the case has been dismissed without prejudice, or that all or part of the case is to be repeated. Such notification shall include a statement of the reasons for the decision.

Authority G.S. 143-545A; 150B-1; 34 C.F.R. 361.48.

**.0222 FAILURE TO APPEAR**

(a) If the applicant or client fails to appear at the hearing and does not have a representative present, the hearing officer shall cancel the hearing.

(b) The applicant or client may submit a written request for rescheduling of the hearing to the ~~deputy director~~ Chief of Operations. The request shall provide an explanation of the individual's failure to appear at the hearing or to have a representative present. The ~~deputy director~~ Chief of Operations may instruct the hearing officer to reschedule the hearing upon a showing of good cause by the applicant or client. "Good cause" may include death or incapacitating illness of the party or an immediate family member of the party, the party's representative, or the party's attorney; involvement in an accident that prevents timely notification of the hearing officer; or failure to receive proper notice of the hearing.

Authority G.S. 143-545A; 150B-1; 34 C.F.R. 361.48.

**.0224 DIVISION DIRECTOR'S REVIEW AND FINAL DECISION**

(a) The division director may review the hearing officer's decision and render the final decision.

(b) The division director's decision to review the hearing officer's decision shall be based on the following standards of review:

- (1) Is the hearing officer's decision arbitrary, capricious, an abuse of discretion, or otherwise unreasonable?
- (2) Is the hearing officer's decision supported by substantial evidence, i.e., consistent with facts and applicable federal and state policy?
- (3) In reaching the decision, has the hearing officer given appropriate and adequate interpretation to such factors as:
  - (A) the federal statute and regulations as they apply to specific issue(s) in question;
  - (B) the state plan as it applies to the specific issue(s) in question;
  - (C) ~~division procedure rules~~ as they apply to the specific issue(s) in question;
  - (D) key portions of conflicting testimony;
  - (E) division options in the delivery of services where such options are permissible under the federal statute; and
  - (F) restrictions in the federal statute with regard to such supportive services as maintenance and transportation. ~~transportation;~~ and
  - (G) ~~approved federal or division policy as it relates to the issue(s) in question.~~

(c) If the division director decides to review the hearing officer's decision, the director shall send the written notification and allow the submission of additional evidence as required by 34 C.F.R. 361.48(c)(2)(iv) and (vii). The written notification shall be given to the applicant or client personally or by certified mail. If given by certified mail, it shall be deemed to have been given on the delivery date appearing on the return receipt.

(d) Upon a determination to review the hearing officer's decision, the division director shall make the final decision and provide the written report thereof as required by 34 C.F.R. 361.48(c)(2)(viii) and (ix). The division director shall not overturn or modify a decision, or part of a decision, of an impartial hearing officer that supports the position of the individual except as allowed under P.L. 102-569, Section 102(d)(3)(C). The final decision shall be given to the applicant or client personally or by certified mail. If given by certified mail, it shall be deemed to have been given on the delivery date appearing on the return receipt.

(e) The hearing officer's decision shall be the final decision under the conditions specified in 34 C.F.R. 361.48(c)(2)(v).



(f) The division director shall forward a copy of the final decision, whether issued under (d) or (e) of this Rule, to the ~~deputy director~~ Chief of Operations, the CAP director, the regional director, and the applicant's or client's representative, as appropriate. A copy shall also be included in the individual's official case record.

Authority G.S. 143-545A; 150B-1; P.L. 102-569, s.102(d); 34 C.F.R. 361.48.

#### .0226 RECORD

(a) The official records of appeals hearings shall be maintained in the central office of the division.

(b) Any person wishing to examine a hearing record shall submit a written request to the ~~deputy director~~ Chief of Operations ~~in sufficient time to allow who shall have the record to be prepared for inspection, including the removal of any confidential material.~~

Authority G.S. 143-545A; 150B-1; 34 C.F.R. 361.48.

#### .0227 TRANSCRIPTS

Any person desiring a transcript of all or part of an appeals hearing shall contact the office of the ~~deputy director~~ Chief of Operations. A fee to cover the cost of preparing the transcript shall be charged, and the party may be required to pay the fee in advance of receipt of the transcript. The transcript may be edited to remove confidential material.

Authority G.S. 143-545A; 150B-1; 34 C.F.R. 361.48.

### SUBCHAPTER 20C - PROGRAM RULES

#### SECTION .0600 - ORDER OF SELECTION FOR SERVICES

##### .0603 PRIORITY CATEGORIES

(a) The priority categories for the order of selection for services for eligible individuals are as follows:

- (1) Category One. Individuals who have the most severe disabilities;
- (2) Category Two. Individuals with severe disabilities;
- ~~(3) Category Three. Individuals with a non-severe permanent disability(ies) who would be served by a program designed to help the individual transition from school to work;~~
- (3) ~~(4)Category Four Three.~~ Individuals with a non-severe and permanent disability ~~disability(ies)~~ who will need multiple vocational rehabilitation services to attain a suitable employment outcome; and
- (4) ~~(5)Category Five Four.~~ Any eligible individual who does not qualify for placement in a higher priority category.

(b) The Division shall follow the provisions of P.L. 102-

569, Section 101(a)(13)(B) which is incorporated by reference regarding public safety officers when applicable in its order of selection. This incorporation by reference shall automatically include any later amendments to the cited section of the public law as allowed by G.S. 150B-21.6 A copy of the cited section of the public law may be obtained at no cost from the Division.

(c) An individual's priority category is determined when eligibility is determined as outlined in Rule .0203 of this Subchapter.

Authority G.S. 143-545A; 143-546A; P.L. 102-569, Section 101(a)(5)(A); 34 C.F.R. 361.36.

\*\*\*\*\*

**N**otice is hereby given in accordance with G.S. 150P-21.2 that the Department of Human Resources, Division of Vocational Rehabilitation Services intends to amend rule cited as 10 NCAC 20D .0204. Notice of Rule-making Proceedings was published in the Register on July 15, 1996.

**Proposed Effective Date:** July 1, 1997

**A Public Hearing** will be conducted at 6:00 p.m. on October 16, 1996 at the Main Conference Room, Division of Vocational Rehabilitation Services, 805 Ruggles Drive, Dorothea Dix Campus, Raleigh, NC.

**Reason for Proposed Action:** Due to a reduction in force of staff within the Division of Vocational Rehabilitation Services directly responsible for administering the standards of client services delivery review process within Community Rehabilitation Programs, the Division must pursue alternative measures to ensure that expected levels of client service delivery standards are met. The acceptance of National standards and accreditation process or the acceptance of Division of Mental Health/Developmental Disabilities/Substance Abuse Services standards and accreditation process will enable the Division to document through third parties that acceptable standards of service delivery are in place at Community Rehabilitation Programs contracting with the Division of Vocational Rehabilitation Services to provide Vocational Evaluation/Vocational Work Adjustment Services and/or Supported Employment Services. This rule change is also in response to requests from Community Rehabilitation Programs that the Division allow them to avoid undergoing National Accreditation if they currently are accredited by the Division of Mental Health/Developmental Disabilities/Substance Abuse Services. The initiation of this rule change will also further enhance State Government's efforts to contract work to private enterprise.

**Comment Procedures:** Comments may be presented orally or in writing at the hearing. Oral statements may be limited at the discretion of the hearing officer. Written comments

may also be submitted until October 31, 1996 to Jackie Stalnaker, Division of Vocational Rehabilitation Services, P.O. Box 26053, Raleigh, NC 27611. To obtain additional information or indicate need for alternative communication format contact Ms. Stalnaker in writing or by phone (919) 733-3364 or TDD (919) 733-5924. In addition, a fiscal note is available upon written request from the same address.

**Fiscal Note:** This Rule does not affect the expenditures or revenues of state or local government funds. This Rule does not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

## SUBCHAPTER 20D - STANDARDS FOR FACILITIES AND PROVIDERS

### SECTION .0200 - STANDARDS FOR FACILITIES

#### .0204 COMMUNITY REHABILITATION PROGRAM STANDARDS

(a) ~~The Division of Vocational Rehabilitation Services presently utilizes those community sheltered workshops and rehabilitation facilities which have been developed through cooperative working relationships with the Division and have demonstrated an ability through agency reviews to provide a comprehensive range of quality rehabilitation services. In addition to the aforementioned conditions of developing and maintaining cooperative working relationships, the Division will require that by January 1, 1982, all community sheltered workshops and rehabilitation facilities providing services to clients of the Division to be accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF).~~

(b) ~~Community sheltered workshops and rehabilitation facilities established after January 1, 1980 for the purpose of providing services to clients of the Division must apply for and receive accreditation from the Commission on Accreditation of Rehabilitation Facilities (CARF) no later than the end of the fourth year of operation. The establishment date for purposes of this Rule will be established in writing to the community sheltered workshop or rehabilitation facility by the Director of the Division of Vocational Rehabilitation Services.~~

(c) ~~As of January 1, 1982, except for those exceptions noted in .0207(b) of this Rule, a community workshop or rehabilitation facility must be accredited by the Commission on Accreditation of Rehabilitation Facilities in order to provide services to clients of the Division.~~

(a) The Division shall utilize only those community rehabilitation programs that are accredited according to the provisions of this Rule.

(b) The following definitions apply to the terms as used in this Rule:

(1) "Fee for service funding" means an hourly rate, fee for service method of funding in which an hourly cost of providing the service

is identified and the program is reimbursed based on the number of hours of actual services provided.

(2) "Fixed-level annual reimbursement process" means a funding method in which the Division reimburses the program for expenditures monthly at a rate of one-twelfth (1/12) of a negotiated annual budget.

(c) Community rehabilitation programs that apply for a fixed-level annual reimbursement process shall be accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), the Accreditation Council, or the International Center for Clubhouse Development.

(d) Community rehabilitation programs providing evaluation, adjustment, or supported employment services which are not accredited by any of the accreditation bodies specified in Paragraph (c) of this Rule may apply for fee for service funding if they are accredited by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

(e) Any program accredited by one of the specified accrediting bodies shall submit to the Division a copy of its accreditation report within 30 days after the program receives its report each time it is surveyed by the accrediting body. The program shall notify the Division of any action taken that affects its accreditation status, either temporarily or permanently. The Division may conduct annual validation surveys to assure compliance.

Authority G.S. 143-545A; 34 C.F.R. 361.45.

## TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the EHNH - Commission for Health Services intends to amend rule cited as 15A NCAC 13B .1627. Notice of Rule-making Proceedings was published in the Register on July 15, 1996.

**Proposed Effective Date:** April 1, 1997

**A Public Hearing** will be conducted at 6:00 p.m. on October 16, 1996 at the Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury Street, Raleigh, NC.

**Reason for Proposed Action:** *The purpose of this Rule amendment is to require owners and operators of unlined landfills to provide a more environmentally sound cap system than is currently required for unlined landfills at closure. Further the amendment avoids fiscal impact to the regulated community by providing that the increased cost of a superior cap system may be covered by appropriate delay of that landfill's closure.*

**Comment Procedures:** *All persons interested in these*



matters are invited to attend the public hearing. Written comments may be presented at the public hearing or submitted to Ms. Joan Troy, Division of Waste Management, Solid Waste Section, 401 Oberlin Road, Suite 150, Raleigh, NC 27605. All written comments must be received by October 31, 1996. Persons who wish to speak at the hearing should contact Ms. Troy at (919) 733-0692 (extension 271). Persons who call in advance of the hearing will be given priority on the speaker's list. Oral presentation lengths may be limited depending on the number of people that wish to speak at the public hearing. Only persons who have made comments at a public hearing or who have submitted written comments will be allowed to speak at the Commission meeting. Comments made at the Commission meeting must either clarify previous comments or proposed changes from staff pursuant to comments made during the public hearing process.

IT IS VERY IMPORTANT THAT ALL INTERESTED AND POTENTIALLY AFFECTED PERSONS, GROUPS, BUSINESSES, ASSOCIATIONS, INSTITUTIONS OR AGENCIES MAKE THEIR VIEWS AND OPINIONS KNOWN TO THE COMMISSION FOR HEALTH SERVICES THROUGH THE PUBLIC HEARING AND COMMENT PROCESS, WHETHER THEY SUPPORT OR OPPOSE ANY OR ALL PROVISIONS OF THE PROPOSED RULES. THE COMMISSION MAY MAKE CHANGES TO THE RULES AT THE COMMISSION MEETING IF THE CHANGES COMPLY WITH G.S. 150B-21.2(f).

**Fiscal Note:** This Rule does not affect the expenditures or revenues of state or local government funds. This Rule does not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

## CHAPTER 13 - SOLID WASTE MANAGEMENT

### SUBCHAPTER 13B - SOLID WASTE MANAGEMENT

#### SECTION .1600 - REQUIREMENTS FOR MUNICIPAL SOLID WASTE LANDFILL FACILITIES (MSWLFs)

##### .1627 CLOSURE AND POST-CLOSURE REQUIREMENTS FOR MSWLF FACILITIES

(a) Purpose. This Rule establishes criteria for the closure of all MSWLF units and subsequent requirements for post-closure compliance. The owner or operator is required to develop specific plans for the MSWLF facility under Rule ~~.1629~~ .1629 of this Section.

(b) Scope.

(1) Closure. Standards are established for the scheduling and documenting closure of all MSWLF units, and designing the cap system. Construction requirements for the cap system incorporate

specific requirements from Rule .1624 of this Section.

(2) Post-closure. Standards are established for the monitoring and maintenance of the MSWLF unit(s) following closure.

(c) Closure criteria.

(1) New and existing MSWLF units and lateral expansions shall install a cap system that is designed to minimize infiltration and erosion. The cap system shall be designed and constructed to:

(A) Have a permeability less than or equal to the permeability of any base liner system or the in-situ subsoils underlying the landfill, or the permeability specified for the final cover in the effective permit, or a permeability no greater than  $1 \times 10^{-5}$  cm/sec, whichever is less;

(B) Minimize infiltration through the closed MSWLF by the use of a low-permeability barrier that contains a minimum 18 inches of earthen material; and

(C) Minimize erosion of the cap system and protect the low-permeability barrier from root penetration by use of an erosion layer that contains a minimum of six inches of earthen material that is capable of sustaining native plant growth.

(2) The Division may approve an alternative cap system if the owner or operator can adequately demonstrate the following:

(A) The alternative cap system will achieve an equivalent or greater reduction in infiltration as the low-permeability barrier specified in Subparagraph (1) of this Paragraph; and

(B) The erosion layer will provide equivalent or improved protection as the erosion layer specified in Subparagraph (3) of this Paragraph.

(3) Construction of the cap system for all MSWLF units shall conform to the requirements set forth in Subparagraphs (b)(8), (b)(9) and (b)(15) of Rule .1624 and the following requirements:

(A) Post-settlement surface slopes shall be a minimum of five percent and a maximum of 25 percent; and

(B) A gas venting or collection system shall be installed below the low-permeability barrier to minimize pressures exerted on the barrier.

(4) Prior to beginning closure of each MSWLF unit as specified in Subparagraph (5) of this Paragraph, an owner or operator shall notify the Division that a notice of the intent to close the unit has been placed in the operating record.

(5) The owner or operator shall begin closure activities of each MSWLF unit no later than 30 days

after the date on which the MSWLF unit receives the known final receipt of wastes or, if the MSWLF unit has remaining capacity and there is a reasonable likelihood that the MSWLF unit will receive additional wastes, no later than one year after the most recent receipt of wastes. Extensions beyond the one-year deadline for beginning closure may be granted by the Division if the owner or operator demonstrates that the MSWLF unit has the capacity to receive additional wastes and the owner or operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed MSWLF unit.

- (6) The owner or operator of all MSWLF units shall complete closure activities of each MSWLF unit in accordance with the closure plan within 180 days following the beginning of closure as specified in Subparagraph (5) of this Paragraph. Extensions of the closure period may be granted by the Division if the owner or operator demonstrates that closure will, of necessity, take longer than 180 days and they have taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed MSWLF unit.
- (7) Following closure of each MSWLF unit, the owner or operator shall notify the Division that a certification, signed by the project engineer verifying that closure has been completed in accordance with the closure plan, has been placed in the operating record.
- (8) Recordation.
  - (A) Following closure of all MSWLF units, the owner or operator shall record a notation on the deed to the landfill facility property, or some other instrument that is normally examined during title search, and notify the Division that the notation has been recorded and a copy has been placed in the operating record.
  - (B) The notation on the deed shall in perpetuity notify any potential purchaser of the property that:
    - (i) The land has been used as a landfill facility; and
    - (ii) Its use is restricted under the closure plan approved by the Division.
- (9) The owner or operator may request permission from the Division to remove the notation from the deed if all wastes are removed from the facility.
- (10) Existing MSWLF units. The following criteria shall apply to existing MSWLF units not designed and constructed with a base liner system permitted by the Division.
  - (A) ~~The existing MSWLF unit shall cease receiving solid waste on or before January~~

~~1, 1998. The permittee of a MSWLF unit receiving municipal solid waste on the effective date of this Rule shall submit an amended transition plan by April 1, 1997. The amended transition plan shall include the following:~~

- ~~(i) A cap system designed in accordance with Rule .1624(b)(8), (9) and (15) of this Section and the following requirements:
 
  - ~~(I) On slopes less than or equal to 8 percent, the cap system shall consist of a composite liner with a geomembrane liner and either a compacted clay layer of 18 inches of soil with a permeability no greater than  $1 \times 10^{-5}$  cm/sec or a geosynthetic clay liner;~~
  - ~~(II) On slopes greater than 8 percent, the cap system shall consist of either a compacted clay layer of 18 inches of soil with a permeability of  $1 \times 10^{-7}$  cm/sec or a geosynthetic clay liner or a geomembrane liner; and~~
  - ~~(III) Other components of the cap system shall be required as necessary to protect the liner system, sustain vegetation, promote drainage, minimize soil loss due to erosion and provide slope stability.~~~~
- ~~(ii) An analysis of the costs of the proposed design in comparison to the cap design specified in Subparagraph (c)(1) of this Paragraph;~~
- ~~(iii) The current costs of operation of the MSWLF unit on a tonnage basis; and~~
- ~~(iv) A proposed closure date based on the amount of time after January 1, 1998, not to exceed five years, necessary to fund the difference between the proposed design and the cap design specified in Subparagraph (c)(1) of this Paragraph. The proposed closure date shall be determined by the following calculations:
 
  - ~~(I)  $SACT - CPTO = RG/T$  where SACT is the state average cost per ton for disposal in a lined MSWLF [\$30.41]; CPTO is the cost per ton to operate the MSWLF unit, and RG/T is the revenue to be~~~~



generated per ton for funding the proposed design.

(II)  $RG/T \times T/DD = RG/D$  where  $RG/T$  is revenue generated per ton;  $T/DD$  is tons per day disposed at the MSWLF unit, and  $RG/D$  is revenue generated per day.

(III)  $CPD = C1627 = RN$  where  $CPD$  is the cost of the proposed design;  $C1627$  is the cost of the design under .1627(c)(1), and  $RN$  is revenue needed.

(IV)  $RN \div RG/D = D98$  where  $RN$  is revenue needed;  $RG/D$  is revenue generated per day and  $D98$  is the days past January 1, 1998.

(B) If an amended transition plan is approved but revenues that are projected to be generated within five years of January 1, 1998 do not offset the costs of the proposed design, a municipal solid waste landfill unit shall stop receiving municipal solid waste on or before January 1, 1998, and install a cap system that, at a minimum, meets the requirements of Subparagraph (c)(1) of this Rule, unless the permittee agrees to fund the remaining costs of the proposed design of the amended transition plan.

(C) The cap system designed under Subpart (c)(10)(A)(i) of this Paragraph shall cover all areas of contiguous waste of the existing MSWLF unit, and contiguous areas where waste was placed prior to October 9, 1991.

(D) An amended transition plan submitted under this Section shall be subject to the permitting and public information procedures of Rule .1603(c) of this Section.

(E) ~~(B)~~The Division shall schedule closure of the existing MSWLF unit based on its review of the application submitted in accordance with Paragraph (d) of Rule .1617 and reviewed in accordance with Subparagraph (d) of Rule .1603. amended transition plan and in accordance with Part (c)(10)(A) of this Paragraph.

~~(C) Final contours for the existing MSWLF unit shall be consistent with the capacity requirements necessary to close the unit in accordance with the requirements of this Subparagraph.~~

(d) Post-closure criteria.

(1) Following closure of each MSWLF unit, the owner or operator shall conduct post-closure care. Post-closure care shall be conducted for 30 years,

except as provided under Subparagraph (2) of this Paragraph, and consist of at least the following:

(A) Maintaining the integrity and effectiveness of any cap system, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the cap system;

(B) Maintaining and operating the leachate collection system in accordance with the requirements in Rules .1624 and ~~.1626~~ .1626 of this Section. The Division may allow the owner or operator to stop managing leachate if the owner or operator demonstrates that leachate no longer poses a threat to human health and the environment;

(C) Monitoring the ground water and surface water in accordance with the requirements of Rules .1631 through .1637 of this Section and maintaining the ground-water monitoring system, if applicable; and monitoring the surface water in accordance with the requirements of Rule ~~.0602~~ .0602 of this Section; and

(D) Maintaining and operating the gas monitoring system in accordance with the requirements of Rule .1626 of this Section.

(2) The length of the post-closure care period may be:

(A) Decreased by the Division if the owner or operator demonstrates that the reduced period is sufficient to protect human health and the environment and this demonstration is approved by the Division; or

(B) Increased by the Division if the Division determines that the lengthened period is necessary to protect human health and the environment.

(3) Following completion of the post-closure care period for each MSWLF unit, the owner or operator shall notify the Division that a certification, signed by a registered professional engineer, verifying that post-closure care has been completed in accordance with the post-closure plan, has been placed in the operating record.

Authority G.S. 130A-294.

## TITLE 26 - OFFICE OF ADMINISTRATIVE HEARINGS

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the Office of Administrative Hearings intends to adopt rules cited as 26 NCAC 2C .0111, .0307, amend rules .0102-.0103, .0401, and .0502. Notice of

*Rule-making Proceedings was published in the Register on August 1, 1996.*

**Proposed Effective Date:** April 1, 1997

**A Public Hearing** will be conducted at 10:00 a.m. on November 1, 1996 at the Lee House, Hearing Room #1, 422 North Blount Street, Raleigh, NC.

**Reason for Proposed Action:** *To correct inconsistencies with the rules and to make technical corrections identified after the April 1, 1996 effective date. To adopt a rule that sets out the criteria to waive a publication submission requirement contained in an OAH rule. To adopt a rule that establishes standards and a fee for agencies who request publication of discretionary notices in the Register under G.S. 150B-21.17(a)(6). To adopt a definition to interpret a "recent act" and "recent change" as those terms are in G.S. 150B-21.1(a)(2) and (a)(3) in the temporary rule review procedure under G.S. 150B-21.1.*

**Comment Procedures:** *Comments and statements, both written and oral, may be presented at the hearing. Any other written comments may be directed to: Anna Baird, Rule-making Coordinator, Office of Administrative Hearings, PO Drawer 27447, Raleigh, NC 27611-7447. Comments must be received by 5:00 p.m. on November 1, 1996.*

**Fiscal Note:** *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.*

## CHAPTER 2 - RULES DIVISION

### SUBCHAPTER 2C - SUBMISSION PROCEDURES FOR RULES AND OTHER DOCUMENTS TO BE PUBLISHED IN THE NORTH CAROLINA REGISTER AND THE NORTH CAROLINA ADMINISTRATIVE CODE

#### SECTION .0100 - GENERAL

##### .0102 DEFINITIONS

The following definitions shall apply throughout this Chapter and to all forms prescribed pursuant to this Chapter unless the context indicates otherwise:

- (1) "Action" means the adoption, amendment, or repeal of a rule.
- (2) "Adoption" means a new rule with a new rule number.
- (3) "Adoption by agency" means the date that an agency takes final action on a rule.
- (4) "Amendment" means an existing rule with a deletion, addition or other change to that existing rule.
- (5) "Citation" means a reference to a rule by Title,

Chapter or Subchapter, and Section or Rule number.

- (6) "Code" means the North Carolina Administrative Code.
- (7) "Commission" means the Rules Review Commission.
- (8) "Form" means an original form provided by OAH; a computer generated form from a diskette provided by OAH; a clear legible photocopy of an original OAH form; or an agency generated form identical to the OAH form.
- (9) "OAH" means the Codifier of Rules at the Office of Administrative Hearings.
- (10) "Original" means a printed copy of the document, not a photocopy.
- (11) "Recent Act" or "Recent change" as used in G.S. 150B-21.1(a)(2) and (a)(3) means an act or change that was effective no more than 180 days before the submission date of the temporary rule to OAH.
- (12) ~~(H)~~ "Register" means the North Carolina Register.
- (13) ~~(I2)~~ "Repeal" means the deletion of the entire text of a rule. When a rule is repealed, that rule number shall not be used again. The number, rule name, and final history note shall remain in the Code permanently for publication and reference purposes.

*Authority G.S. 150B-21.17; 150B-21.18.*

##### .0103 ORIGINAL AND DUPLICATE COPY

(a) The agency shall submit an original and one copy of any document and form for publication in the Register or Code.

(b) The agency shall include an additional copy of the rule and a copy of the fiscal note and attachments with any permanent rule that is submitted to the Commission.

(c) The original and form shall each be permanently marked as the original.

**Note:** Rules Review Commission requests that documents be submitted in the following order:

- (1) the original submission form;
- (2) the copy or copies of the submission form;
- (3) the original of the rule;
- (4) the copy, highlighted if required by Rule .0405 of this Subchapter;
- (5) the agency return copy of the rule, if any;
- (6) the copy of the fiscal note and attachments;
- (7) (6) the remaining copy for RRC.

*Authority G.S. 150B-21.17; 150B-21.18; 150B-21.19.*

##### .0111 WAIVER

OAH may waive any rule in this Subchapter that is not statutorily required if an agency submits a written request. Factors OAH shall use in determining whether to grant the

waiver are:

- (1) degree of disruption to OAH publication and work schedule;
- (2) cost to OAH;
- (3) degree of benefit to the public;
- (4) whether the agency had control over the circumstances that required the requested waiver;
- (5) notice to and opposition by the public;
- (6) need for the waiver; and
- (7) previous requests for waivers submitted from the agency.

- (b) the body of the rule (Rule .0405 of this Subchapter);
- (c) the history note (Rule .0406 of this Subchapter).
- (3) A return copy, if desired (Rule .0104 of this Subchapter).
- (4) An original Notice of Text or Notice of Text and Hearing form and copy if publication in the Register shall serve as Notice of Text.

*Authority G.S. 150B-21.19.*

*Authority G.S. 150B-21.19.*

## SECTION .0300 - THE NORTH CAROLINA REGISTER

### .0307 OTHER NOTICES FOR PUBLICATION

(a) OAH may publish any document or notice that is not statutorily required if an agency submits a written request. Factors OAH shall use in determining whether to grant the request are:

- (1) degree of disruption to OAH publication and work schedule; and
- (2) degree of benefit to the public.

(b) OAH shall invoice the agency for the publication cost of thirty dollars (\$30.00) per published page.

*Authority G.S. 150B-21.17(6); 150B-19(5)(a); 150B-21.25.*

## SECTION .0400 - NORTH CAROLINA ADMINISTRATIVE CODE

### .0401 SCOPE

(a) The rules in this Section set forth the requirements for submitting rules for inclusion in the Code. The agency shall also comply with the requirements in Sections .0100 - .0200 of this Subchapter.

(b) These Rules apply to agencies subject to G.S. 150B as well as those agencies subject to G.S. 150B-21.21(a) and (b).

*Authority G.S. 150B-21.17; 150B-21.18; 150B-21.19.*

## SECTION .0500 - TEMPORARY RULES

### .0502 PUBLICATION OF A TEMPORARY RULE

The agency shall submit a temporary rule for review by OAH and publication in the Code with the following:

- (1) An original Temporary Rule Certification form and copy (Rule .0503 of this Section).
- (2) An original and copies of the temporary rule (Rule .0103 of this Subchapter) prepared in accordance with Rule .0108 of this Subchapter, containing:
  - (a) an introductory statement (Rule .0404 of this Subchapter);



*The Codifier of Rules has entered the following temporary rule(s) in the North Carolina Administrative Code. Pursuant to G.S. 150B-21.1(e), publication of a temporary rule in the North Carolina Register serves as a notice of rule-making proceedings unless this notice has been previously published by the agency.*

**TITLE 10 - DEPARTMENT OF HUMAN  
RESOURCES**

**Rule-making Agency:** DHR - Division of Medical Assistance

**Rule Citation:** 10 NCAC 26H .0602

**Effective Date:** October 4, 1996

**Notice of Rule-making Proceedings** was published in the Register on August 1, 1996.

**Findings Reviewed and approved by** Beecher R. Gray

**Authority for the rule-making:** G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1985, c. 479, s. 86; 42 C.F.R. 440.70

**Reason for Proposed Action:** This action is based on a home health study conducted by the Division of Medical Assistance and results in the home health prospective rates being more nearly aligned to average industry cost. The proposed change will result in annual savings of approximately 1.7 million dollars to the Medicaid program.

**A Public Hearing** will be conducted at 1:30 p.m. on October 31, 1996 at the Division of Medical Assistance, 1985 Umstead Dr. - Kirby Bldg. - Room 132, Raleigh, NC 27603.

**Comment Procedures:** Written comments concerning this rule-making action must be submitted by October 31, 1996 to Portia Rochelle, APA Coordinator, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603.

**Fiscal Note:** This Rule affects the expenditures or revenues of local government funds. This Rule affects the expenditure or distribution of State funds subject to the Executive Budget Act, Article 1 of Chapter 143. This Rule does not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

**CHAPTER 26 - MEDICAL ASSISTANCE**

**SUBCHAPTER 26H - REIMBURSEMENT PLANS**

**SECTION .0600 - HOME HEALTH PROSPECTIVE  
REIMBURSEMENT**

**.0602 REIMBURSEMENT METHODS**

(a) A maximum rate per visit is established annually for

each of the following services:

- (1) Registered or Licensed Practical Nursing Visit;
- (2) Physical Therapy Visit;
- (3) Speech Therapy Visit;
- (4) Occupational Therapy Visit;
- (5) Home Health Aide Visit.

(b) The maximum rates for the services identified in Section Paragraph (a) above of this Rule are computed and applied as follows:

- (1) Payment of claims for visits is based on the lower of the billed customary charges or the maximum rate of the particular service. Governmental providers with nominal charges may bill at cost. For this purpose, a charge that is less than 50 percent of cost is considered a nominal charge. For such governmental providers, the payment amount is equal to the lower of the cost as billed or the applicable maximum rate.
- (2) ~~The maximum rates are derived from a base year selected by the state. The base year maximum rates are set at 90 percent of the median charge per visit for each service. Maximum per visit rates effective July 1, 1996, for Registered or Licensed Practical Nursing, Physical Therapy, Speech Therapy, Occupational Therapy and Home Health Aide shall be equal to the rates in effect on July 1, 1995.~~
- (3) ~~To compute the annual maximum rates, the base year median rates per visit are adjusted as described in Sections (4), (5) and (6): rates effective each July 1 subsequent to July 1, 1996, the maximum rates per visit are adjusted as described in Subparagraphs (4), (5), and (6) of this Paragraph.~~
- (4) ~~Base Each year maximum rates are adjusted by an annual cost index factor. The cost index has a labor component with a relative weight of 75 percent and a non-labor component with a relative weight of 25 percent. The relative weights are derived from the Medicare Home Health Agency Input Price Index and adopted by reference pursuant to N.C.G.S. 150B-14(a)(2)(e) as specified in 150B-21.6, published in the Federal Register dated May 30, 1986. Labor cost changes are measured by the annual percentage change in the average hourly earnings of North Carolina service wages per worker. Non-labor cost changes are measured by the annual percentage change in the GNP Implicit Price Deflator.~~
- (5) The annual cost index equals the sum of the products of multiplying the forecasted labor cost percentage change by 75 percent and multiplying



the forecasted non-labor cost percentage change by 25 percent. The ~~base year~~ July 1, 1996 effective rates are multiplied by the cost index factor for each year ~~subsequent from the base year up~~ to the year in which the rates apply.

- (6) Other adjustments may be necessary for home health services to comply with federal or state laws or rules.

(c) Medical supplies except those related to provision and use of Durable Medical Equipment are reimbursed at the lower of a provider's billed customary charges or a maximum amount determined for each supply item. Fees will be established based on average, reasonable charges if a Medicare allowable amount cannot be obtained for a particular supply item. Estimates of reasonable cost will be used if a Medicare allowable amount cannot be obtained for a particular supply or equipment item. The Medicare allowable amounts will be those amounts available to the Division of Medical Assistance as of July 1 of each year.

(d) These changes to the Payment for Services Prospective Reimbursement Plan for Home Health Agencies will become effective when the Health Care Financing Administration, US Department Health and Human Services, approves amendment submitted to HCFA by the Director of the Division of Medical Assistance on or about July 1, 1996 as #MA96-03 wherein the Director proposes amendments of the State Plan to amend Payment for Services - Prospective Reimbursement Plan for Home Health Agencies.

*History Note:* Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1985, c.479, s. 86; 42 C.F.R. 440.70;  
*Eff.* October 1, 1987;  
*Amended Eff.* October 1, 1992; May 1, 1990;  
*Temporary Amendment Eff.* October 4, 1996.

## TITLE 25 - OFFICE OF STATE PERSONNEL

**Rule-making Agency:** State Personnel Commission

**Rule Citation:** 25 NCAC 1D .2501, .2503 - .2505, .2507 - .2509, .2511, .2513, .2514, .2516

**Effective Date:** September 1, 1996

**Findings Reviewed by Beecher R. Gray:** *Approved*

**Authority for the rule-making:** G.S. 126-4, 126-7, S.L. 1995, c. 507, s. 7.14

**Reason for Proposed Action:** *These rules are proposed to be adopted and amended in order to provide clarification to the state agencies in administering the legislative salary increases enacted by the General Assembly in HB 53 in the 1995 Session.*

**Comment Procedures:** *Written or oral comments may be*

*submitted to: Ms. Patsy Smith Morgan, 116 West Jones Street, Raleigh, NC 27603, (919) 733-7112 within 60 days after the date of this publication in the Register.*

## CHAPTER 1 - OFFICE OF STATE PERSONNEL

### SUBCHAPTER 1D - COMPENSATION

#### SECTION .2500 - COMPREHENSIVE COMPENSATION SYSTEM

##### .2501 CAREER GROWTH RECOGNITION AWARD

Career Growth Recognition Award is an annual salary increase awarded to an employee whose final overall summary rating is at or above level three of the rating scale and who does not have an unresolved final ~~written warning disciplinary procedure, that involves personal conduct.~~ This is the primary method by which an employee progresses through the salary range. In the event that an employee does not receive a cost-of-living increase, the salary may fall below the minimum of the salary range. This factor alone shall not be justification for any type of salary adjustment.

*History Note:* Authority G.S. 126-7;

*Eff.* June 1, 1994;

*Temporary Amendment Eff.* September 1, 1996.

##### .2503 EMPLOYEES ELIGIBLE FOR CAREER GROWTH RECOGNITION AWARD

(a) An employee having a permanent or time-limited full-time or part-time (half-time or more) appointment whose salary is below the maximum of the range and whose overall summary rating is at or above level three after completing a work cycle based on a work plan shall receive a career growth recognition award unless the employee has an unresolved final ~~written warning disciplinary procedure that involves personal conduct.~~ For an employee who otherwise qualifies for a career growth recognition award, a final written warning is the only justification for not granting this increase.

(b) An employee who has been denied the career growth recognition award because of an unresolved final ~~written warning disciplinary procedure.~~ shall receive the award on a current basis at the time that final ~~written warning disciplinary procedure~~ is resolved. (See 25 NCAC 1D .2514 of this Section) For purpose of calculating the career growth recognition award, only the most recently awarded increase shall be utilized (i.e., the last increase that was funded).

(c) An employee having a probationary or trainee appointment on the date increases are effective is not eligible for a career growth recognition award. These employees become eligible when increases are effective for the next cycle after:

- (1) receiving a permanent appointment,
- (2) completing a work cycle, and

- (3) receiving a summary rating that is at or above level three.

(d) An employee who is on leave without pay on the date career growth recognition awards are granted shall receive the increase on the date of reinstatement if the work cycle has been completed and a summary rating given. If the work cycle and summary rating have not been completed, the employee shall receive the career growth recognition award at the time when both are completed.

(e) An employee who separates from State service prior to the effective date career growth increases are effective is not eligible for the increase.

*History Note: Authority G.S. 126-7;*

*Eff. June 1, 1994;*

*Temporary Amendment Eff. September 1, 1996.*

#### **.2504 EFFECTIVE DATE OF CAREER GROWTH RECOGNITION AWARD**

Career growth recognition awards shall be effective on the first day of July unless otherwise specified by the General Assembly or because they are delayed due to leave without pay or an unresolved final ~~written warning~~ disciplinary procedure.

*History Note: Authority G.S. 126-7;*

*Eff. June 1, 1994;*

*Temporary Amendment Eff. September 1, 1996.*

#### **.2505 COST-OF-LIVING ADJUSTMENT**

Cost-of-Living Adjustment is a general salary increase in response to inflation and labor market factors awarded to an employee whose final overall summary rating is at or above level two of the rating scale, and who does not have an unresolved final ~~written warning~~ disciplinary procedure.

*History Note: Authority G.S. 126-7;*

*Eff. June 1, 1994;*

*Temporary Amendment Eff. September 1, 1996.*

#### **.2507 EMPLOYEES ELIGIBLE FOR COST-OF-LIVING ADJUSTMENT**

(a) An employee having a permanent, time-limited probationary, or trainee full-time or part-time ~~(half-time or more)~~ appointment whose overall summary rating is at or above level two, or a rating based on Paragraph (b) of this Rule that is not unsatisfactory, except employees who have an unresolved final ~~written warning~~ disciplinary procedure ~~involving personal conduct~~ on the date that increases are given is eligible for a cost-of-living increase. This applies to all employees regardless of where their salary is in the salary range, including those above the maximum.

(b) For the purpose of granting the cost-of-living adjustment to employees who have not completed a full performance management cycle and received an overall summary rating, the following shall apply:

- (1) ~~Prior to July 1, each~~ Each employee's perfor-

mance shall be reviewed.

- (2) If the review indicates unsatisfactory performance, the employee shall not receive the cost-of-living adjustment until the performance level is above the unsatisfactory level. The actual results of the review shall be documented with the employee.
- (3) If the review indicates that the performance is above unsatisfactory, the employee shall be granted the cost-of-living adjustment.
- (4) If the supervisor feels that the employee has not worked long enough for a determination of performance level to be made, a review shall be made each month for the purpose of determining whether the performance is above unsatisfactory and the cost-of-living adjustment should be granted.
- (5) If the cost-of-living adjustment has not been granted during the probationary period, it shall be granted at the time the employee is given a permanent appointment since the employee's performance must be satisfactory to move from a probationary to a permanent appointment.

(c) An employee who has been denied the cost-of-living adjustment because of an unresolved final ~~written warning~~ disciplinary procedure ~~involving personal conduct~~ shall receive the adjustment on a current basis when that final ~~written warning~~ disciplinary procedure is resolved. (See 25 NCAC 1D .2514 of this Section)

(d) An employee who is on leave without pay on the date a cost-of-living adjustment is effective shall receive the increase on the date of reinstatement if the employee's performance has been determined to be above the unsatisfactory level, or at such time as the employee's performance is determined to be above the unsatisfactory level.

*History Note: Authority G.S. 126-7;*

*Eff. June 1, 1994;*

*Temporary Amendment Eff. September 1, 1996.*

#### **.2508 EFFECTIVE DATE OF COST-OF-LIVING ADJUSTMENT**

Cost-of-living adjustments shall be effective on the first day of July unless otherwise specified by the General Assembly or because they have been delayed due to leave without pay or an unresolved final ~~written warning~~ disciplinary procedure.

*History Note: Authority G.S. 126-7;*

*Eff. June 1, 1994;*

*Temporary Amendment Eff. September 1, 1996.*

#### **.2509 PERFORMANCE BONUS**

Performance Bonus is a lump sum award to an employee whose final overall summary rating is at or above level four of the rating scale and who does not have an unresolved final ~~written warning~~ disciplinary procedure.

*History Note: Authority G.S. 126-7;  
Eff. June 1, 1994;  
Temporary Amendment Eff. September 1, 1996.*

**.2511 EMPLOYEES ELIGIBLE FOR PERFORMANCE BONUS**

(a) An employee having a permanent or time-limited full-time or part-time (half-time or more) appointment whose overall summary rating is at or above level four after completing a work cycle based on a work plan shall be eligible to receive a performance bonus unless the employee has an unresolved final ~~written warning that involves personal conduct~~ disciplinary procedure.

(b) An employee who has been denied a performance bonus because of an unresolved final ~~written warning~~ disciplinary procedure involving personal conduct shall not be eligible for a performance bonus during the current cycle. The employee will be eligible for a bonus in the next cycle based on the ~~performance evaluation~~ overall summary rating.

(c) An employee having a probationary or trainee appointment on the date bonuses are effective is not eligible for a performance bonus. These employees become eligible when increases are effective for the next cycle after:

- (1) receiving a permanent appointment,
- (2) completing a work cycle, and
- (3) receiving a summary rating at or above level four.

(d) An employee who is on leave without pay on the date performance bonuses are effective shall receive the bonus effective on the date of reinstatement if the work cycle has been completed and an overall summary rating given. If the work cycle and overall summary rating have not been completed, the employee shall receive the bonus at the time when both have been completed.

(e) An employee whose salary is at the maximum of the salary range is eligible for a performance bonus.

(f) An employee whose salary is above the maximum of the salary range is eligible for a performance bonus only to the extent that the base salary paid the employee plus the performance bonus allocated according to the employee's performance rating does not exceed the maximum salary paid on the adopted pay schedule for the applicable pay grade plus the allocated performance bonus calculated on the maximum salary on the pay schedule. This performance bonus shall be calculated as follows:

Line	Item	Calculation
1	Maximum of salary range	
2	% bonus due according to performance rating	
3	Dollar amount of performance bonus [Line 1 x Line 2]	
4	Maximum annual salary allowed [Line 1 + Line 3]	
5	Salary of employee paid above maximum of range	
6	Maximum performance bonus for employee paid above the range [Line 4 - Line 5]	
If Line 5 is greater than Line 4, the employee cannot receive a bonus.		

(g) An employee who separates from State service prior to the effective date performance bonuses are effective is not eligible to receive the increase.

*History Note: Authority G.S. 126-7;  
Eff. June 1, 1994;  
Temporary Amendment Eff. September 1, 1996.*

**.2513 BASES FOR AWARDED INCREASES**

(a) Each agency shall have an operative Performance Management System which has been approved by the Office of State Personnel using the North Carolina Performance Rating Scale. The complete requirements for an operative performance management system are defined in 25 NCAC 10 - Performance Management System.

(b) Eligibility for increases will be based on the most recent work cycle completed and overall summary rating received during the previous 12-month period.

(c) The performance management system of each agency shall ensure that salary increases are distributed fairly, consistent with internal equity and with the Performance Management System. The State Personnel Director shall



rescind any career growth recognition award or performance bonus that does not meet the intent of the provisions of the performance management rules and require the originating agency to reconsider or justify the increase. An increase or bonus does not meet the intent of the provisions of the performance management rules in the event that increases or bonuses are distributed:

- (1) in an arbitrary or capricious manner;
- (2) in a manner that violates laws prohibiting discrimination; or
- (3) to managers or supervisors whose failure to comply with the performance management rules resulted in the loss of an increase or a bonus by employees under their supervision.

(d) No agency shall set limits so as to preclude an eligible employee from receiving a career growth recognition award, cost-of-living adjustment, or performance bonus; or to initiate written disciplinary procedures for the purpose of precluding an eligible employee from receiving a cost-of-living adjustment.

(e) When a work cycle has been completed but an overall summary rating has not been given, the State Personnel Director has the authority to order the agency to give an accurate rating. If the agency fails to give a rating, the employee shall be given a rating of no less than level 3. Once a rating is given for work performed during a cycle for which the General Assembly has allocated funds for an increase under the Comprehensive Compensation System, the employee shall, if allowed by law and the Administrative Code, be eligible for the increase retroactive to the date that other increases were awarded.

(f) Final Disciplinary Procedure Defined: For purposes of eligibility for salary increases, an employee in final disciplinary procedure is an employee whose personnel file includes:

- (1) two active disciplinary actions of any type; or
- (2) a suspension without pay or demotion.

*History Note: Filed as a Temporary Amendment Eff. July 1, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*

*Authority G.S. 126-4; 126-7;*

*Eff. June 1, 1994;*

*Temporary Amendment Expired;*

*Temporary Amendment Eff. September 1, 1996.*

#### **.2514 FINAL DISCIPLINARY PROCEDURE**

For purpose of this Section only, a final written warning disciplinary procedure is deemed to be resolved: ~~in the event;~~ resolved:

- (1) when it becomes inactive in accordance with 25 NCAC 1J .0614(g);
- (2) when an authorized manager or supervisor places a written statement in the personnel file of an affected employee indicating that the issue addressed in the final written disciplinary procedure, while not inactive, is sufficiently resolved to

warrant the granting of the appropriate salary increase; or

- (3) when the presence of the same final written disciplinary procedure in the personnel file was utilized as a basis to deny a salary increase in a previous performance management cycle.

~~(1) that the personal conduct issue is resolved and the warning is removed from the employee's personnel file; or~~

~~(2) that the personnel file of the employee contains a written statement from an authorized manager or supervisor indicating that, after review of the personal conduct issue, circumstances warrant the granting of the career growth award; or~~

~~(3) that the final written warning disciplinary procedure is not resolved in a manner set forth in Subparagraph (a)(1) or (a)(2) of this Rule; and;~~

~~(A) more than 18 months have passed since the date of the final written warning disciplinary procedure or a letter extending the effect of the warning; and;~~

~~(B) the agency has not tendered notice to the employee of the extension of the final written warning for the purpose of this Section. (The notice of extension may be tendered at any time prior to 18 months from the date of the final written warning or prior to the expiration of 18 months from the date of the prior extension.)~~

~~(b) In the event that neither Subparagraph (a)(1),(a)(2), nor (a)(3) of this Rule are applicable to the final written warning, then the final written warning shall be deemed an active final written warning or an unresolved final written warning.~~

~~(c) This Rule and the granting of increases have no effect on the sue of the final written for any other purpose.~~

*History Note: Authority G.S. 126-7;*

*Eff. June 1, 1994;*

*Temporary Amendment Eff. September 1, 1996.*

#### **.2516 ELIGIBILITY FOR SEPTEMBER 1, 1996 LEGISLATIVE SALARY INCREASES**

For purposes of administering the legislative salary increase provisions, effective September 1, 1996, Rules 25 NCAC 1D.2501-.2508 and .2513-.2515 shall apply to the extent there is not a conflict with the following procedures. If there is a conflict, the following procedures shall apply:

- (1) A career growth recognition award shall be granted as follows:

(a) Employees whose salaries are at the maximum shall receive a 2% one-time career growth bonus.

(b) Employees whose salaries are less than 2% from the maximum shall receive a partial increase added to base pay in an amount that it takes to get to the maximum. These

employees shall also receive a one-time career growth bonus in an amount that would equal 2% of the base pay minus the amount of the career growth award given.

- (c) Employees whose salaries are above the maximum shall receive a 2% one-time career growth bonus based on the maximum of the salary range in effect on August 31, 1996.
- (2) The following employees shall receive the cost-of-living increase in accordance with Rule .2507(b)(1)-(5) of this Section:
  - (a) Employees with a probationary appointment,
  - (b) Employees who have not completed a work cycle, and
  - (c) Employees who do not have a performance rating because they were hired after the last performance management cycle was completed.
- (3) After receiving a permanent appointment, employees described in Subitems (2)(b) and (2)(c) of this Rule shall also be eligible to receive a career growth recognition award as provided below in this Item. Each agency shall assure that all employees are reviewed/evaluated by the same method.
  - (a) Each employee shall be given an interim review at the mid-point of the employee's Performance Management Cycle. If their total time of employment is at least equivalent to the agency's minimum Performance Management Cycle requirement, the employee shall be granted a career growth recognition award at that point, if their performance is deemed to be at level 3 or above; or, it shall be granted at the time the employee completes the total time of employment requirement; or
  - (b) Each employee shall be evaluated and given a summary rating after completing time in the new cycle that is at least equivalent to the agency's minimum Performance Management Cycle requirement. If the overall summary rating is at level 3 or above, the employee shall be granted a career growth recognition award. In any event, all these employees, employed prior to September 1, 1996, shall be evaluated for the career growth recognition award by May 31, 1997, and shall receive the career growth recognition award if their rating is at level 3 or above and they are not in final disciplinary procedure.
- (4) Employees with trainee appointments are eligible for the cost-of-living adjustment if they are not in final disciplinary procedure. Employees with

trainee appointments may be eligible for career growth recognition awards under the following circumstances:

- (a) Employees who are scheduled for trainee adjustments are not eligible for the career growth recognition award. They become eligible if they are qualified and are rated for placement into the regular class during this fiscal year, provided their total time of employment is at least equivalent to the agency's minimum Performance Management Cycle requirement. If this requirement has not been met, the increase shall be delayed until it has been met.
- (b) Employees with trainee appointments who are not scheduled for trainee salary adjustments during this fiscal year shall be eligible for the career growth award the same as employees who are in regular classes.
- (c) In any event, all employees shall be evaluated for the career growth recognition award by May 31, 1997, unless they are in a trainee class that extends beyond this date.

*History Note: Authority S.L. 1995, c. 507, s. 7.14; G.S. 126-4;*

*Temporary Adoption Eff. September 1, 1996.*

*This Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, October 17, 1996 at 10:00 a.m. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners by Monday, October 14, 1996, at 5:00 p.m. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.*

**RULES REVIEW COMMISSION MEMBERS**

**Appointed by Senate**  
 Vernice B. Howard  
 Teresa L. Smallwood  
 Charles H. Henry  
 Philip O. Redwine - Vice Chairman

**Appointed by House**  
 Bill Graham  
 Paul Powell  
 Anita White

**RULES REVIEW COMMISSION MEETING DATES**

October 17, 1996  
 November 21, 1996

December 19, 1996

**MEETING DATE: OCTOBER 17, 1996**

**LOG OF FILINGS**

**RULES SUBMITTED: AUGUST 20, 1996 THROUGH SEPTEMBER 20, 1996**

AGENCY/DIVISION	RULE NAME	RULE	ACTION
<b>DHR/DIVISION OF FACILITY SERVICES</b>			
	Name and Address	10 NCAC 3R .0109	Repeal
	Definitions	10 NCAC 3R .0110	Amend
	Location of Agency	10 NCAC 3R .0111	Adopt
	Health Maintenance	10 NCAC 3R .0213	Amend
	Replacement Equipment	10 NCAC 3R .0214	Amend
	Psychiatric Bed Conversion	10 NCAC 3R .0215	Adopt
	Letter of Intent	10 NCAC 3R .0303	Amend
	Determination of Review	10 NCAC 3R .0304	Amend
	Filing Applications	10 NCAC 3R .0305	Amend
	Withdrawal of Certificate	10 NCAC 3R .0317	Amend
	Assessment of Civil Penalty	10 NCAC 3R .0904	Adopt
	State Medical Facilities	10 NCAC 3R .1003	Repeal
	Definitions	10 NCAC 3R .1113	Repeal
	Capacity in the Facility	10 NCAC 3R .1115	Repeal
	Scope of Services	10 NCAC 3R .1116	Repeal
	Projected Utilization	10 NCAC 3R .1117	Repeal
	Projected Patient Origin	10 NCAC 3R .1118	Repeal
	Site: Building	10 NCAC 3R .1119	Repeal
	Staffing	10 NCAC 3R .1120	Repeal
	Accessibility of Services	10 NCAC 3R .1124	Repeal
	Information Required	10 NCAC 3R .1125	Adopt
	Required Performance	10 NCAC 3R .1126	Adopt
	Required Staffing	10 NCAC 3R .1127	Adopt
	Information Required	10 NCAC 3R .1214	Amend
	Required Support	10 NCAC 3R .1216	Amend
	Accessibility	10 NCAC 3R .1218	Repeal



Data Reporting	10 NCAC 3R .1219	Repeal
Definitions	10 NCAC 3R .1302	Repeal
Capacity in the Facility	10 NCAC 3R .1304	Repeal
Scope of Services Offered	10 NCAC 3R .1305	Repeal
Projected Utilization	10 NCAC 3R .1306	Repeal
Projected Patient Origin	10 NCAC 3R .1307	Repeal
Site and Equipment	10 NCAC 3R .1308	Repeal
Staffing	10 NCAC 3R .1309	Repeal
Definitions	10 NCAC 3R .1413	Amend
Information Required	10 NCAC 3R .1414	Amend
Data Reporting	10 NCAC 3R .1418	Repeal
Accessibility	10 NCAC 3R .1419	Repeal
Definitions	10 NCAC 3R .1613	Amend
Information Required	10 NCAC 3R .1614	Amend
Required Performance	10 NCAC 3R .1615	Amend
Data Reporting	10 NCAC 3R .1618	Repeal
Accessibility	10 NCAC 3R .1619	Repeal
Definitions	10 NCAC 3R .1713	Amend
Information Required	10 NCAC 3R .1714	Amend
Data Reporting	10 NCAC 3R .1719	Repeal
Accessibility	10 NCAC 3R .1720	Repeal
Definitions	10 NCAC 3R .1912	Amend
Information Required	10 NCAC 3R .1913	Amend
Required Performance	10 NCAC 3R .1914	Amend
Required Staffing	10 NCAC 3R .1916	Amend
Accessibility	10 NCAC 3R .1917	Repeal
Data Reporting	10 NCAC 3R .1918	Repeal
Accessibility to Services	10 NCAC 3R .2117	Repeal
Data Reporting	10 NCAC 3R .2120	Repeal
Data Reporting	10 NCAC 3R .2319	Repeal
Accessibility	10 NCAC 3R .2320	Repeal
Definitions	10 NCAC 3R .2402	Amend
Capacity in the Facility	10 NCAC 3R .2404	Repeal
Scope of Services	10 NCAC 3R .2405	Repeal
Project Utilization	10 NCAC 3R .2406	Repeal
Projected Resident Origin	10 NCAC 3R .2407	Repeal
Site: Building	10 NCAC 3R .2408	Repeal
Staffing	10 NCAC 3R .2409	Repeal
Information Required	10 NCAC 3R .2410	Adopt
Performance Standards	10 NCAC 3R .2411	Adopt
Staff	10 NCAC 3R .2412	Adopt
Definitions	10 NCAC 3R .2502	Amend
Capacity in the Facility	10 NCAC 3R .2503	Repeal
Capacity in the Service Area	10 NCAC 3R .2504	Repeal
Scope of Services	10 NCAC 3R .2505	Repeal
Staffing	10 NCAC 3R .2506	Repeal
Accessibility	10 NCAC 3R .2507	Repeal
Capital	10 NCAC 3R .2508	Repeal
Quality of Services	10 NCAC 3R .2509	Repeal
Quality of Services	10 NCAC 3R .2510	Adopt
Performance Standards	10 NCAC 3R .2511	Adopt
Staffing	10 NCAC 3R .2512	Adopt
Capacity in the Facility	10 NCAC 3R .2603	Repeal
Scope of Services	10 NCAC 3R .2605	Repeal
Accessibility	10 NCAC 3R .2607	Repeal
Relationship	10 NCAC 3R .2608	Repeal
Capital	10 NCAC 3R .2609	Repeal

Quality of Services	10 NCAC 3R .2610	Repeal
Information Required	10 NCAC 3R .2612	Adopt
Performance Standards	10 NCAC 3R .2613	Adopt
Accessibility	10 NCAC 3R .2718	Repeal
Data Reporting	10 NCAC 3R .2719	Repeal
Information Required	10 NCAC 3R .2802	Amend
Projected Utilization	10 NCAC 3R .2803	Repeal
Projected Patient Origin	10 NCAC 3R .2804	Repeal
Site: Building	10 NCAC 3R .2805	Repeal
Required Staffing	10 NCAC 3R .2806	Amend
Accessibility	10 NCAC 3R .2807	Repeal
Relationship	10 NCAC 3R .2809	Repeal
Performance Standards	10 NCAC 3R .2810	Adopt
Certificate of Need	10 NCAC 3R .3001	Amend
Multi-County Groupings	10 NCAC 3R .3010	Amend
Certificate of Need	10 NCAC 3R .3020	Amend
Facility and Service Need	10 NCAC 3R .3030	Amend
Dialysis Station	10 NCAC 3R .3032	Amend
Reallocations	10 NCAC 3R .3040	Amend
Policies	10 NCAC 3R .3050	Amend
Information Required	10 NCAC 3R .3103	Amend
Accessibility	10 NCAC 3R .3107	Repeal
Data Reporting	10 NCAC 3R .3108	Repeal
Required Support	10 NCAC 3R .3204	Amend
Data Reporting	10 NCAC 3R .3206	Repeal
Accessibility	10 NCAC 3R .3207	Repeal
Data Reporting	10 NCAC 3R .3306	Repeal
Definitions	10 NCAC 3R .3401	Amend
Data Reporting	10 NCAC 3R .3406	Repeal
Accessibility	10 NCAC 3R .3407	Repeal
Information Required	10 NCAC 3R .3502	Amend
Need for Services	10 NCAC 3R .3503	Repeal
Data Reporting	10 NCAC 3R .3506	Repeal
Accessibility	10 NCAC 3R .3507	Repeal
Accessibility	10 NCAC 3R .3606	Repeal
Data Reporting	10 NCAC 3R .3607	Repeal
Data Reporting	10 NCAC 3R .3706	Repeal
Accessibility	10 NCAC 3R .3707	Repeal
Data Reporting	10 NCAC 3R .3806	Repeal
Accessibility	10 NCAC 3R .3807	Repeal
Definitions	10 NCAC 3R .3902	Amend
Information Required	10 NCAC 3R .3903	Amend
Need for Facility	10 NCAC 3R .3904	Repeal
Data Reporting	10 NCAC 3R .3907	Repeal
Accessibility	10 NCAC 3R .3908	Repeal
Performance Standards	10 NCAC 3R .3909	Adopt
Information Required	10 NCAC 3R .4002	Amend
Required Support	10 NCAC 3R .4003	Amend
Additional Requirements	10 NCAC 3R .4004	Amend
Additional Requirements	10 NCAC 3R .4005	Amend
Additional Requirements	10 NCAC 3R .4006	Amend
Additional Requirements	10 NCAC 3R .4007	Amend
Additional Requirements	10 NCAC 3R .4008	Repeal
Need for Services	10 NCAC 3R .4010	Repeal
Data Reporting	10 NCAC 3R .4011	Repeal
Accessibility	10 NCAC 3R .4012	Amend
Information Required	10 NCAC 3R .4102	Amend

Required Performance	10 NCAC 3R .4103	Amend
Required Support	10 NCAC 3R .4104	Amend
Required Staffing	10 NCAC 3R .4105	Amend
Data Reporting	10 NCAC 3R .4106	Repeal
Accessibility	10 NCAC 3R .4107	Repeal
Information Required	10 NCAC 3R .4202	Amend
Required Support	10 NCAC 3R .4204	Amend
Accessibility	10 NCAC 3R .4206	Repeal
Data Reporting	10 NCAC 3R .4207	Repeal

**DHR/CHILD DAY CARE COMMISSION**

Definitions	10 NCAC 3U .0102	Amend
Preservice Requirements	10 NCAC 3U .0704	Amend
Preservice Requirements	10 NCAC 3U .0710	Amend
Application for Permits	10 NCAC 3U .2701	Adopt
Criminal Record Check	10 NCAC 3U .2702	Adopt
Criminal Record Check	10 NCAC 3U .2703	Adopt
Criminal Record Check	10 NCAC 3U .2704	Adopt

**DHR/SOCIAL SERVICES COMMISSION**

Preplacement Assessment	10 NCAC 41P .0008	Amend
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**DEHNR/ENVIRONMENTAL MANAGEMENT COMMISSION**

Activities Exempted	15A NCAC 2Q .0102	Amend
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**DEHNR/WILDLIFE RESOURCES COMMISSION**

Wildlife Taken	15A NCAC 10B .0106	Amend
Possession of Certain Species	15A NCAC 10B .0123	Amend
Local Water Safety	15A NCAC 10F .0307	Amend
Qualifications	15A NCAC 10G .0102	Repeal
Change of Ownership	15A NCAC 10G .0103	Repeal
Qualifications of Agents	15A NCAC 10G .0202	Repeal
Change of Ownership	15A NCAC 10G .0203	Repeal
Authority of Boat Registration	15A NCAC 10G .0206	Repeal
Qualifications of Agents	15A NCAC 10G .0302	Repeal
Change of Ownership	15A NCAC 10G .0303	Repeal
Purpose	15A NCAC 10G .0401	Adopt
Appointment	15A NCAC 10G .0402	Adopt
Wildlife Service Agent	15A NCAC 10G .0403	Adopt
Customer Support System	15A NCAC 10G .0404	Adopt
Protection of Endangered Species	15A NCAC 10I .0002	Amend

**DEHNR/COMMISSION FOR HEALTH SERVICES**

Definitions	15A NCAC 18A .2601	Amend
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**NC LICENSING BOARD FOR GENERAL CONTRACTORS**

Eligibility	21 NCAC 12 .0204	Amend
Renewal of License	21 NCAC 12 .0503	Amend

**OFFICE OF ADMINISTRATIVE HEARINGS**

Order Designating Complex	26 NCAC 3 .0301	Adopt
Factors to be Considered	26 NCAC 3 .0302	Adopt
Venue	26 NCAC 3 .0303	Adopt
Expedited Hearing	26 NCAC 3 .0304	Adopt
Rules and Procedures	26 NCAC 3 .0305	Adopt



RULES REVIEW OBJECTIONS

BOARD OF DENTAL EXAMINERS

21 NCAC 16H .0104 - Approved Education and Training Programs	RRC Objection	09/19/96
21 NCAC 16H .0202 - Specific Permitted Functions of Dental Assistant I	RRC Objection	09/19/96

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Environmental Management

15A NCAC 2B .0101 - General Procedures	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2B .0103 - Analytical Procedures	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Revised Rule	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2B .0109 - Waters Affected by Dredge and Fill Activities	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
	Obj. Removed	09/19/96
15A NCAC 2B .0201 - Antidegradation Policy	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2B .0202 - Definitions	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Revised Rule	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2B .0231 - Wetland Standards (Rule .0231 was Noticed as Rule .0220)	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2C .0211 - Permits	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
15A NCAC 2C .0213 - Additional Criteria and Standards Applicable to Class 5 Wells	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
15A NCAC 2C .0214 - Abandonment and Change-of-Status of Wells	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
15A NCAC 2D .0501 - Compliance with Emission Control Standards	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2D .0608 - Program Schedule	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2D .0901 - Definitions	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2D .0926 - Bulk Gasoline Plants	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2D .0934 - Coating of Miscellaneous Metal Parts and Products	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2D .1109 - Case-by-Case Maximum Achievable Control Technology	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
15A NCAC 2H .0501 - Purpose	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96

Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2H .0502 - Application	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2H .0503 - Public Notice	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2H .0504 - Hearing	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2H .0506 - Criteria for Review of Applications	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Revised Rule	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96
15A NCAC 2H .0507 - Issuance of Certification	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Responded	Obj. Cont'd	09/19/96
Rule Returned to Agency	Obj. Cont'd	09/19/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	10/01/96

**Commission for Health Services**

15A NCAC 13C .0302 - General Provisions	RRC Objection	09/19/96
15A NCAC 13C .0304 - Minimum Qualifications for Registered Env. Consultants	RRC Objection	09/19/96
15A NCAC 13C .0306 - Technical Standards for Registered Environmental Consultants	RRC Objection	09/19/96
15A NCAC 18A .3106 - Abatement	RRC Objection	07/18/96
Agency Revised Rule	Obj. Removed	08/15/96

**Wildlife Resources Commission**

15A NCAC 10F .0104 - Certificate of Number	RRC Objection	07/18/96
Agency Revised Rule	Obj. Removed	08/15/96
15A NCAC 10F .0105 - Numbering Pattern	RRC Objection	07/18/96
Agency Revised Rule	Obj. Removed	08/15/96
15A NCAC 10F .0342 - Catawba County		
Rule Withdrawn by Agency		07/18/96

**HUMAN RESOURCES**

**Social Services Commission**

10 NCAC 41F .0707 - Criminal Histories	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
10 NCAC 41F .0813 - Criminal History Checks	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
10 NCAC 41F .0814 - Training Requirements	RRC Objection	07/18/96
No Response from Agency	Obj. Cont'd	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96

**INSURANCE**

11 NCAC 20 .0101 - Definitions	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
11 NCAC 20 .0402 - Organization Structure	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
11 NCAC 20 .0404 - Application	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
11 NCAC 20 .0406 - Provider Files	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
11 NCAC 20 .0501 - Program	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
11 NCAC 20 .0502 - Structure	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
11 NCAC 20 .0505 - Quality of Care Complaints	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96
11 NCAC 20 .0701 - Accessibility of Providers	RRC Objection	08/15/96
Agency Withdrew Rule	Obj. Cont'd	09/19/96

**EXAMINERS FOR NURSING HOME ADMINISTRATORS**

21 NCAC 37H .0102 - Continuing Education Programs of Study	RRC Objection	07/18/96
Agency Revised Rule	Obj. Removed	08/15/96

**PSYCHOLOGY BOARD**

21 NCAC 54 .1901 - Types	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96

**REAL ESTATE COMMISSION**

21 NCAC 58A .0104 - Agency Agreements and Disclosure	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	07/18/96
21 NCAC 58A .0113 - Reporting Criminal Convictions	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	07/18/96
21 NCAC 58A .0502 - Business Entities	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	06/20/96
21 NCAC 58A .0610 - Subpoenas	RRC Objection	06/20/96
Agency Revised Rule	Obj. Removed	07/18/96
21 NCAC 58E .0302 - Elective Course Component	RRC Objection	06/20/96
Agency Responded	Obj. Cont'd	07/18/96
Agency Revised Rule	Obj. Removed	08/15/96

**REVENUE**

17 NCAC 1C .0504 - EFT General Requirements	RRC Objection	08/15/96
Agency Revised Rule	Obj. Removed	09/19/96

**BOARD FOR LICENSING OF SOIL SCIENTISTS**

21 NCAC 69 .0102 - Duties of Officers	RRC Objection	09/19/96
21 NCAC 69 .0302 - Definitions	RRC Objection	09/19/96
21 NCAC 69 .0303 - Requirements	RRC Objection	09/19/96
21 NCAC 69 .0304 - Units	RRC Objection	09/19/96
21 NCAC 69 .0305 - Determination of Credit	RRC Objection	09/19/96
21 NCAC 69 .0307 - Exemptions	RRC Objection	09/19/96
21 NCAC 69 .0401 - Code of Professional Conduct	RRC Objection	09/19/96
21 NCAC 69 .0402 - Rules of Conduct of Advertising	RRC Objection	09/19/96

**TRANSPORTATION**

**Division of Highways**

19A NCAC 2D .1102 - Definitions	RRC Objection	08/15/96
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**RULES REVIEW COMMISSION**

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<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>09/19/96</i>
<i>19A NCAC 2D .1108 - Goals</i>	<i>RRC Objection</i>	<i>08/15/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>09/19/96</i>
<i>19A NCAC 2D .1111 - Performance Related Replacement of Eligible Firms</i>	<i>RRC Objection</i>	<i>08/15/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>09/19/96</i>
 <b>Division of Motor Vehicles</b>		
<i>19A NCAC 3E .0511 - Registration of Interstate Authority</i>	<i>RRC Objection</i>	<i>09/19/96</i>
 <b>Public Transportation and Rail Division</b>		
<i>19A NCAC 6B .0412 - Procurements</i>	<i>RRC Objection</i>	<i>08/15/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>09/19/96</i>

*This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698.*

**OFFICE OF ADMINISTRATIVE HEARINGS**

*Chief Administrative Law Judge*  
JULIAN MANN, III

*Senior Administrative Law Judge*  
FRED G. MORRISON JR.

**ADMINISTRATIVE LAW JUDGES**

Brenda B. Becton  
Sammie Chess Jr.  
Beecher R. Gray  
Meg Scott Phipps

Robert Roosevelt Reilly Jr.  
Dolores Nesnow Smith  
Thomas R. West

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b>ADMINISTRATION</b>				
Douglas J. Register v. Department of Administration	96 DOA 0172	Reilly	08/16/96	
<b>ALCOHOLIC BEVERAGE CONTROL COMMISSION</b>				
Osama Arafat Sadar v. Alcoholic Beverage Control Commission	95 ABC 0721	Gray	07/09/96	
Alcoholic Beverage Control Commission v. James Eads Sprowles	95 ABC 0883*7	Gray	07/10/96	
Cole Entertainment, Inc. v. Alcoholic Beverage Control Commission	95 ABC 0917	West	08/21/96	11:12 NCR 1027
Fuad Saif Murshed v. Alc. Bev. Ctl. Comm. & Durham Mem. Bapt. Ch.	95 ABC 0922	Chess	04/24/96	
Alcoholic Beverage Control Commission v. Tremik, Inc.	95 ABC 0925	Morrison	03/25/96	
Alcoholic Beverage Control Commission v. Maria Virginia Tramontano	95 ABC 1200	West	04/23/96	
Alcoholic Beverage Control Commission v. Huffman Oil Co., Inc.	95 ABC 1251	West	04/03/96	11:03 NCR 166
Pinakin P. Talate v. Alcoholic Beverage Control Commission	95 ABC 1329	West	04/10/96	
Alcoholic Beverage Control Commission v. Entrepreneur, Inc.	95 ABC 1363	Reilly	05/02/96	
Alcoholic Beverage Control Commission v. Zell, Inc.	95 ABC 1366	West	06/17/96	
Alcoholic Beverage Control Commission v. Henry Franklin Gurganus	95 ABC 1389	West	04/01/96	
Andrew Parker v. Alcoholic Beverage Control Commission	95 ABC 1402	Phipps	03/27/96	
Barraq Sabri Alquza v. Alcoholic Beverage Control Commission	95 ABC 1424	Phipps	04/03/96	
Alcoholic Beverage Control Comm. v. Partnership T/A T & L Groceries	95 ABC 1443	West	03/26/96	
Alcoholic Beverage Control Commission v. Cashion's Food Mart, Inc.	95 ABC 1444	Gray	03/13/96	
Alcoholic Beverage Control Commission v. E.K.'s II, Inc. Carl E. Collins	95 ABC 1458	Chess	08/12/96	
Bro Bee, Inc. v. Alcoholic Beverage Control Commission	95 ABC 1480	West	04/15/96	
Alcoholic Beverage Control Commission v. Donald Ray Doak	95 ABC 1488	West	03/29/96	
Alcoholic Beverage Control Commission v. Janice Lorraine Jeter	96 ABC 0013	Reilly	04/26/96	
Alcoholic Beverage Control Commission v. Well Informed, Inc.	96 ABC 0016	Chess	05/28/96	
Alcoholic Beverage Control Commission v. Kubbard, Inc.	96 ABC 0017	Reilly	05/20/96	
Alcoholic Beverage Control Commission v. Stemmermans's, Inc.	96 ABC 0018	Chess	05/28/96	
George Wright and Alice Ramsuer v. Alcoholic Beverage Control Comm.	96 ABC 0058	Becton	04/16/96	
Alcoholic Beverage Control Commission v. Bayron Green	96 ABC 0097	Becton	08/23/96	
Alcoholic Beverage Control Commission v. Robert Montgomery McKnight	96 ABC 0135	Phipps	05/09/96	
Gerald Audry Sellars v. Alcoholic Beverage Control Commission	96 ABC 0160	Becton	06/25/96	11:08 NCR 564
Alcoholic Beverage Control Commission v. Jacqueline Robin Anthony	96 ABC 0184	Phipps	05/09/96	
Alcoholic Beverage Control Commission v. Factory Night Club, Inc.	96 ABC 0226	Phipps	08/02/96	

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<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Alcoholic Beverage Control Commission v. C.N.H. Enterprises, Inc.	96 ABC 0232	Becton	07/09/96	
Alcoholic Beverage Control Commission v. Millicent J. Green	96 ABC 0234	Nesnow Smith	06/13/96	
Ghassan Hasan Issa v. Alcoholic Beverage Control Commission	96 ABC 0256	Morrison	05/23/96	
Alcoholic Beverage Control Commission v. Abdelhakeem Muraweh Saleh	96 ABC 0381	Chess	08/27/96	
Alcoholic Beverage Control Commission v. Triangle Drive-In	96 ABC 0443	Reilly	06/11/96	
Alcoholic Beverage Control Commission v. Beroth Oil Company	96 ABC 0447	Morrison	08/30/96	11:13 NCR 1085
Alcoholic Beverage Control Commission v. Beroth Oil Company	96 ABC 0448	Morrison	08/30/96	
Alcoholic Beverage Control Commission v. Beroth Oil Company	96 ABC 0449	Morrison	08/30/96	
Alcoholic Beverage Control Commission v. Beroth Oil Company	96 ABC 0450	Morrison	08/30/96	
Alcoholic Beverage Control Commission v. Giles Rozier	96 ABC 0473	Morrison	09/19/96	
Alcoholic Beverage Control Commission v. Clifton Franklin Smith	96 ABC 0474	Reilly	08/12/96	
Dilhra Smith Patton v. Alcoholic Beverage Control Commission	96 ABC 0505	Morrison	08/06/96	
Alcoholic Beverage Control Commission v. James Eads Sprowles	96 ABC 0526*7	Gray	07/10/96	
Alcoholic Beverage Control Commission v. Albert S. Carter	96 ABC 0534	Morrison	08/05/96	
Alcoholic Beverage Control Comm. v. Centergrove Entertainment Ent.	96 ABC 0583	Reilly	08/12/96	

## COMMISSION FOR AUCTIONEERS

John W. Foster v. Auctioneer Licensing Board	96 CFA 0201	Phipps	05/06/96	
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## DEPARTMENT OF CORRECTION

James J. Lewis v. Department of Correction	96 DOC 0772	West	09/05/96	
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## CRIME CONTROL AND PUBLIC SAFETY

Roland Lee Kelly, Jr. v. United Family Services, Victim Assistance/Crime Victims Compensation Comm.	95 CPS 0568	Morrison	05/29/96	
Robert F. Bronsdon v. Crime Victims Compensation Commission	95 CPS 1216	Chess	05/28/96	
Helen B. Hunter-Reid v. Crime Victims Compensation Commission	95 CPS 1336	Nesnow Smith	03/29/96	11:02 NCR 93
Deborah C. Passarelli v. Crime Victims Compensation Commission	95 CPS 1399	Reilly	07/18/96	11:09 NCR 814
Kenneth Saunders v. Victims Compensation Commission	95 CPS 1445	Chess	03/26/96	
Franklin McCoy Jones v. Crime Victims Compensation Commission	96 CPS 0056	Nesnow Smith	07/03/96	
Ruby H. Ford v. Crime Victims Compensation Commission	96 CPS 0110	Reilly	04/18/96	
Manuel Cervantes v. Victims Compensation Fund	96 CPS 0118	Chess	03/19/96	
Sheila Carol Blake v. Victims Compensation Commission	96 CPS 0280	West	07/10/96	
James T. Mungo v. Victims Compensation Commission	96 CPS 0333	Reilly	07/09/96	
Jerome Crutchfield v. CPS, Victims Compensation Commission	96 CPS 0340	Phipps	09/05/96	
William Theodore Frazier v. Crime Victims Compensation Commission	96 CPS 0435	Chess	08/22/96	
Donna Williams v. Crime Victims Compensation Commission	96 CPS 0493	Morrison	06/13/96	
Anthony P. Dawkins v. Crime Victims Compensation Commission	96 CPS 0716	Reilly	08/16/96	
Shirley M. King v. Crime Victims Compensation	96 CPS 0802	West	08/08/96	
Mark Matthews for Child Victim v. Crime Victims Compensation Comm.	96 CPS 0832	Becton	08/20/96	

## ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Gribble & Assoc. & Four Seasons Car Wash v. EHNR	95 EHR 0576	Gray	04/25/96	
Wilton Evans v. Environment, Health, & Natural Resources	95 EHR 0843	Reilly	07/17/96	
David Martin Shelton v. Rockingham County Dept/Public Health, EHNR	95 EHR 0941	West	05/01/96	
Kinston Urological Associates, P.A. v. N.C. Cancer Program	95 EHR 1198*2	Nesnow Smith	03/27/96	11:02 NCR 97
Kinston Urological Associates, P.A. v. N.C. Cancer Program	95 EHR 1199*2	Nesnow Smith	03/27/96	11:02 NCR 97
Elsie & Tony Cecchini v. Environment, Health, & Natural Resources	95 EHR 1240	Reilly	04/22/96	
United Organics Corporation v. Environment, Health, & Natural Res.	96 EHR 0064	Nesnow Smith	07/01/96	
Gerald Mac Clamrock v. Environment, Health, & Natural Resources	96 EHR 0168	Phipps	05/06/96	
John Milazzo v. Environment, Health, & Natural Resources	96 EHR 0644	Reilly	08/13/96	

### Coastal Resources

Martin W. Synger v. Division of Coastal Management	95 EHR 1006	Chess	05/13/96	
J. E. Smith Construction Co. v. Division of Coastal Management	96 EHR 0074	Nesnow Smith	02/23/96	
Theodore D. Barris v. Town of Long Beach, NC & Coastal Mgmt, EHNR	96 EHR 0277	West	05/09/96	



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<i>Environmental Health</i>				
Forest Gate Motel v. Environment, Health, and Natural Resources	96 EHR 0076	West	06/17/96	
Paradise Ridge Home Owners by Anne Norburn v. EHNHR, Env. Health	96 EHR 0162	Phipps	05/06/96	
<i>Environmental Management</i>				
Herman E. Smith v. Division of Environmental Management	95 EHR 0962	West	04/30/96	
Conover Lumber Co., Inc. v. EHNHR, Division of Environmental Mgmt.	95 EHR 1081	Reilly	04/12/96	
Jack West d/b/a Jack West Tree Service v. Environmental Mgmt. Comm.	95 EHR 1421	Morrison	04/08/96	
The Smithfield Packing Co., Inc., v. EHNHR, Environmental Mgmt. and Citizens for Clean Industry, Inc. and Bladen Environment	95 EHR 1474	West	07/03/96	
Clover M Farms, Inc. v. EHNHR, Division of Environmental Management	96 EHR 0405	Becton	06/10/96	
Providence Glen Associates v. Environmental Management, EHNHR	96 EHR 0648	Becton	08/12/96	
<i>Land Resources</i>				
K&G Properties, Inc. v. EHNHR, Division of Land Resources	95 EHR 1078	Nesnow Smith	03/25/96	
<i>Marine Fisheries</i>				
Robert I. Swinson, Sr. v. EHNHR, Health & Nat. Res., Marine Fisheries	95 EHR 0320	Chess	03/29/96	11:03 NCR 168
Grayden L. Fulcher and Michael Styron, Sr. v. Div. of Marine Fisheries	96 EHR 0003	Reilly	03/06/96	
Johanny R. Stotesberry v. Marine Fisheries Commission	96 EHR 0072	Gray	08/19/96	11:11 NCR 955
<i>Solid Waste Management</i>				
R. Donald Phillips v. EHNHR, Solid Waste Management Division	95 EHR 1190**	Gray	05/22/96	
R. Donald Phillips v. EHNHR, Solid Waste Management Division	96 EHR 0554**	Gray	05/22/96	
<i>WIC Program</i>				
Lazelle Marks v. EHNHR, Division of Maternal and Child Health	95 EHR 0870	West	03/27/96	
Hani Sader v. Nutrition Services, Div/Maternal & Child Health, EHNHR	96 EHR 0054	West	05/22/96	
Bob's Quick Mart, Bobby D. Braswell v. Env., Health, & Natural Res.	96 EHR 0091	Nesnow Smith	04/02/96	
Larry E. Mis v. USDA-Food/Cons Svc, Cory Menees-WIC Prog., EHNHR	96 EHR 0164	Phipps	03/19/96	
Naser H. Hammad v. Dept. of Environment, Health, & Natural Resources	96 EHR 0632	Reilly	07/09/96	
Jamil M. Saleh v. Dept. of Environment, Health, & Natural Resources	96 EHR 0634	Phipps	09/04/96	
Khaled M. Alzer v. Dept. of Environment, Health, & Natural Resources	96 EHR 0721	Reilly	07/30/96	
<b>EQUAL EMPLOYMENT OPPORTUNITIES</b>				
Carl D. Davis v. Department of Correction	91 EEO 1101	Nesnow Smith	05/06/96	
<b>HUMAN RESOURCES</b>				
Cassandra M. Deshazo v. Christine E. Carroll, Chf Chld Abuse/Neg. Sec.	95 DHR 1410	Phipps	03/28/96	
Medicus Robinson v. Department of Human Resources	96 DHR 0167	Nesnow Smith	04/12/96	
<i>Division of Child Development</i>				
Molly Fallin v. Department of Human Resources	94 DHR 0872*3	Gray	05/15/96	
Molly Fallin v. Department of Human Resources	95 DHR 1013*3	Gray	05/15/96	
Mary T. Hill v. DHR, Division of Child Development	95 DHR 1192	Phipps	03/27/96	
Iola Roberson v. DHR, Division of Child Development	95 DHR 1244	Gray	05/16/96	
Zannie M. Allen v. DHR, Division of Child Development	96 DHR 0304	Gray	08/15/96	
<i>Division of Facility Services</i>				
Eloise Brown v. Dept. of Human Resources, Division of Facility Services	95 DHR 1002	Phipps	03/07/96	
Harry Martin Bastian v. DHR, Division of Facility Services	96 DHR 0287	West	08/21/96	
<i>Certificate of Need Section</i>				
Nash Hospitals, Inc. v. DHR, Div/Facility Services, Cert. of Need Sect.	95 DHR 1176*5	Phipps	05/23/96	11:06 NCR 389
Pitt Cty Mem. Hospital, Inc. v. DHR, Div/Facility Sries, Cert/Need Sect.	95 DHR 1177*5	Phipps	05/23/96	11:06 NCR 389

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<i>Group Care Licensure Section</i>				
Alex L. McCall v. DHR, Div/Facility Svcs, Group Care Licensure Sec.	95 DHR 1456	Nesnow Smith	03/26/96	
DHR, Facility Services, Group Care Licensure Sect. v. Petrova Evans	96 DHR 0544	Phipps	08/21/96	
<i>Medical Facilities Licensure Section</i>				
Deborah Reddick v. Department of Human Resources	96 DHR 0240	Reilly	06/18/96	
Stacey Yvette Franklin v. Facility Services, Medical Facilities Lic. Sec.	96 DHR 0358	Morrison	05/16/96	
<i>Division of Medical Assistance</i>				
Judy Malcuit, Re Melissa Malcuit v. DHR, Div. of Medical Assistance	96 DHR 0129	Gray	06/12/96	
<i>Division of Social Services</i>				
Crysteal Fields v. Department of Human Resources	95 DHR 1001	Gray	07/05/96	
Rozena Chambliss v. Department of Human Resources	95 DHR 1044	Nesnow Smith	03/12/96	
Addie & Major Short v. Department of Human Resources	95 DHR 1063	Morrison	03/19/96	
Mr. and Mrs. Jessie Stevenson v. DHR, Division of Social Services	95 DHR 1072	Phipps	03/15/96	
William G. Fisher v. DHR, Div. of Social Services, Prog Integrity Branch	95 DHR 1234	Morrison	03/19/96	
Verna F. Nunn v. Department of Human Resources	95 DHR 1330	Gray	04/11/96	
Nancy Hooker, Helen Tyndall v. Department of Human Resources	96 DHR 0155	Gray	04/26/96	
<i>Child Support Enforcement Section</i>				
Donald E. Rideout Jr. v. Department of Human Resources	95 CSE 0952	Reilly	04/18/96	
Christopher F. Roakes v. Department of Human Resources	95 CSE 1131	Becton	05/03/96	
Claude Eure Jr. v. Department of Human Resources	95 CSE 1155	Phipps	06/12/96	
Richard R. Fox, Sr. v. Department of Human Resources	95 CSE 1169	Becton	03/19/96	
Joselito D. Pilar v. Department of Human Resources	95 CSE 1180	Chess	03/01/96	
David Lee Grady v. Department of Human Resources	95 CSE 1218	Morrison	03/26/96	
Patrick Orlando Crump v. Department of Human Resources	95 CSE 1221	Nesnow Smith	03/05/96	
Peter Robert Kovolsky v. Department of Human Resources	95 CSE 1230	Becton	03/11/96	
Tony Lee Zapata v. Department of Human Resources	95 CSE 1266	Gray	05/02/96	
Lawrence Dow Dean v. Department of Human Resources	95 CSE 1267	Morrison	03/29/96	
Carl E. Coffey v. Department of Human Resources	95 CSE 1270	Nesnow Smith	03/15/96	
Keith Dewayne Senters v. Department of Human Resources	95 CSE 1273	Phipps	04/01/96	
Lonnie Dawes v. Department of Human Resources	95 CSE 1274	Nesnow Smith	06/12/96	
Mickey Turner v. Department of Human Resources	95 CSE 1278	Nesnow Smith	03/14/96	
James Joseph Gallagher v. Department of Human Resources	95 CSE 1280	Chess	03/19/96	
James Thomas McRae v. Department of Human Resources	95 CSE 1296	Chess	03/15/96	
Vincent E. Koehler v. Department of Human Resources	95 CSE 1301	Phipps	05/09/96	
David J. Moseley v. Department of Human Resources	95 CSE 1304	Chess	03/29/96	
Derrick L. Conyers v. Department of Human Resources	95 CSE 1308	Reilly	03/13/96	
Charles Edward Smith v. Department of Human Resources	95 CSE 1309	West	03/07/96	
Kevin Vereen v. Department of Human Resources	95 CSE 1315	Phipps	05/06/96	
James Curtis Witwer v. Department of Human Resources	95 CSE 1331	Becton	03/26/96	
Thornell Bowden v. Department of Human Resources	95 CSE 1345	Morrison	03/07/96	
Henry S. Sada v. Department of Human Resources	95 CSE 1367	Nesnow Smith	03/21/96	
Charles F. Moore v. Department of Human Resources	95 CSE 1369	Chess	03/27/96	
Daniel Leslie Baker v. Department of Human Resources	95 CSE 1373	Morrison	03/12/96	
Kenneth L. Lindsey v. Department of Human Resources	95 CSE 1375	West	06/24/96	
John L. Pike v. Department of Human Resources	95 CSE 1376	Nesnow Smith	03/21/96	
Wm. R. Evans v. Department of Human Resources	95 CSE 1377	Becton	03/11/96	
Rory J. Curry v. Department of Human Resources	95 CSE 1380	Mann	03/15/96	
Lorin A. Brown v. Department of Human Resources	95 CSE 1382	Reilly	04/18/96	
Marcus Anthony Butts v. Department of Human Resources	95 CSE 1405	Nesnow Smith	03/27/96	
Cynthia Pinder v. Department of Human Resources	95 CSE 1406	Becton	03/11/96	
Rhonnice J. Williams v. Department of Human Resources	95 CSE 1407	Chess	05/06/96	
Ramon Domenech v. Department of Human Resources	95 CSE 1408	Phipps	03/11/96	
Lennard J. Watson v. Department of Human Resources	95 CSE 1414	Mann	08/23/96	
Dennis L. McNeill v. Department of Human Resources	95 CSE 1435	Becton	03/13/96	
Tony A. Rogers v. Department of Human Resources	95 CSE 1436	Chess	05/16/96	
Rick E. Atkins v. Department of Human Resources	95 CSE 1437	Phipps	04/01/96	
Timothy A. Ratley (Jeanes) v. Department of Human Resources	95 CSE 1465	Morrison	03/26/96	
Richard E. Reader v. Department of Human Resources	95 CSE 1469	Nesnow Smith	04/29/96	
Wendel McDonald v. Department of Human Resources	95 CSE 1470	Becton	07/29/96	

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Wilbur Dewayne Bault v. Department of Human Resources	95 CSE 1475	West	03/13/96	
Reginald B. Bratton Sr. v. Department of Human Resources	96 CSE 0002	Mann	08/23/96	
James C. Smith v. Department of Human Resources	96 CSE 0034	Gray	05/10/96	
Ronald D. Johnson v. Department of Human Resources	96 CSE 0084	Nesnow Smith	03/27/96	
Johnny Leary v. Department of Human Resources	96 CSE 0055	Becton	05/03/96	
Jimmy Strickland v. Department of Human Resources	96 CSE 0119	Chess	07/08/96	
John W. Scott v. Department of Human Resources	96 CSE 0130	Mann	03/15/96	
Calvin S. Austin v. Department of Human Resources	96 CSE 0140	Phipps	05/17/96	
Derek Henslee v. Department of Human Resources	96 CSE 0188	Reilly	05/17/96	
Donald L. Carr, Jr. v. Department of Human Resources	96 CSE 0200	West	05/30/96	
Norman Waycaster v. Department of Human Resources	96 CSE 0245	Becton	05/16/96	
Lorenzo Wilson v. Department of Human Resources	96 CSE 0257	Phipps	05/06/96	
Mark Kevin Burns v. Department of Human Resources	96 CSE 0271	Morrison	06/24/96	
Cyril Lloyd Payne v. Department of Human Resources	96 CSE 0272	Reilly	05/31/96	
Charles H. Johnson v. Department of Human Resources	96 CSE 0295	West	07/15/96	
Willie James Myers v. Department of Human Resources	96 CSE 0299	Becton	07/19/96	
Christopher F. Byrne v. Department of Human Resources	96 CSE 0336	Chess	06/26/96	
Richard Painall Burch v. Department of Human Resources	96 CSE 0339	Phipps	06/27/96	
Charles Gillispie v. Department of Human Resources	96 CSE 0365	Mann	07/23/96	
Teresa Reynolds v. Department of Human Resources	96 CSE 0369	Gray	07/23/96	
Thornell Bowden v. Department of Human Resources	96 CSE 0370	Morrison	05/17/96	
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Carl R. Ritter v. Department of Human Resources	96 CSE 0380	West	05/08/96	
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Daniel J. Carter v. Department of Human Resources	96 CSE 0417	Gray	06/24/96	
Kelvin Tarlton v. Department of Human Resources	96 CSE 0424	Morrison	05/29/96	
Steven Craig Mooney v. Department of Human Resources	96 CSE 0425	Reilly	07/08/96	
John L. Cherry Jr. v. Department of Human Resources	96 CSE 0426	West	06/24/96	
Arthur Jemerson v. Department of Human Resources	96 CSE 0427	Nesnow Smith	08/01/96	
Michael S. Covington v. Department of Human Resources	96 CSE 0428	Becton	08/02/96	
Gary Steele v. Department of Human Resources	96 CSE 0429	Chess	08/26/96	
Terry Sealey v. Department of Human Resources	96 CSE 0430	Phipps	05/29/96	
Jackie L. Kopczick v. Department of Human Resources	96 CSE 0431	Mann	06/05/96	
Virginia McDowell Ramsey v. Department of Human Resources	96 CSE 0464	Gray	08/02/96	
D. Wayne Gray v. Department of Human Resources	96 CSE 0465	Morrison	08/02/96	
Claude R. Anderson v. Department of Human Resources	96 CSE 0502	Reilly	07/22/96	
Alan Kendell Locklear v. Department of Human Resources	96 CSE 0503	West	05/30/96	
Douglas F. McBryde v. Department of Human Resources	96 CSE 0518	Becton	08/19/96	
Thomas White v. Department of Human Resources	96 CSE 0519	Chess	08/29/96	
James Trevor Emerson v. Department of Human Resources	96 CSE 0545	Phipps	07/25/96	
Ray Davis Hood v. Department of Human Resources	96 CSE 0547	Mann	09/12/96	
Leon McNair v. Department of Human Resources	96 CSE 0557	Morrison	08/08/96	
John William White v. Department of Human Resources	96 CSE 0558	Reilly	08/14/96	
Hazel L. Walker v. Department of Human Resources	96 CSE 0559	West	06/24/96	
Tayloria Y. Manns v. Department of Human Resources	96 CSE 0564	Nesnow Smith	08/15/96	
Carl S. McNair v. Department of Human Resources	96 CSE 0568	Becton	06/24/96	
David Agurs v. Department of Human Resources	96 CSE 0580	Chess	06/13/96	
King Sanders Jr. v. Department of Human Resources	96 CSE 0581	Phipps	08/22/96	
Sandra Kay Carpenter v. Department of Human Resources	96 CSE 0595	Gray	08/29/96	
Christopher Clyde Barrino Jr. v. Department of Human Resources	96 CSE 0603	Morrison	08/26/96	
Clinton Sutton v. Department of Human Resources	96 CSE 0629	Reilly	08/29/96	
Dave L. James v. Department of Human Resources	96 CSE 0638	West	07/15/96	
Jonathan Bernard Copper v. Department of Human Resources	96 CSE 0642	Phipps	09/03/96	
Franklin D. Deese v. Department of Human Resources	96 CSE 0690	Mann	07/23/96	
Renee G. Arriola v. Department of Human Resources	96 CSE 0790	Becton	05/14/96	
Melinda S. Tunner v. Department of Human Resources	95 DCS 0921	Morrison	05/09/96	
Jeanne G. Bishop v. Department of Human Resources	95 DCS 0958	West	04/04/96	
Rebecca Beaver v. Department of Human Resources	95 DCS 1114	Reilly	04/26/96	
Vivian B. White v. Department of Human Resources	95 DCS 1115	Phipps	06/04/96	
Mary R. Mahon v. Department of Human Resources	95 DCS 1137*	Chess	06/11/96	
Mary R. Mahon v. Department of Human Resources	95 DCS 1142*	Chess	06/11/96	
Laura Heidorf v. Department of Human Resources	96 DCS 0065	Reilly	03/22/96	
Lois Floyd Barber v. Department of Human Resources	96 DCS 0176	Gray	07/30/96	



# CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>	
<b>INSURANCE</b>					
Carol M. Hall v. Teachers & State Employees Comp. Major Medical Plan	95 INS 1141	Phipps	04/01/96	11:05 NCR 308	
Arthur Wayne Dempsey v. Department of Insurance	95 INS 1255	Nesnow Smith	04/22/96		
Deborah B. Beavers v. Teachers & St. Emp. Comp. Major Med. Plan	95 INS 1411	Nesnow Smith	05/10/96		
Nadia A. Hakim v. Department of Insurance	95 INS 1422	Nesnow Smith	03/26/96		
Mary Alice Casey v. Department of Insurance	96 INS 0148	Reilly	08/14/96		
<b>JUSTICE</b>					
Wendy Atwood v. Department of Justice (Company Police Program)	96 DOJ 0111	Chess	08/07/96		
Deborah K. Torrance v. Company Police Program Administrator	96 DOJ 0363	Becton	08/14/96		
<i>Education and Training Standards Division</i>					
Freddie Leverna Thompson v. Criml. Justice Ed. & Training Stds. Comm.	95 DOJ 0731	Chess	02/29/96	11:10 NCR 874	
Shane Douglas Crawford v. Sheriffs' Ed. & Training Stds. Comm.	95 DOJ 0943	Reilly	05/17/96		
Charles Henry Daniels v. Criml. Justice Ed. & Training Stds. Comm.	95 DOJ 1070	West	06/12/96		
Valerie Maxine Brewington v. Criml. Justice Ed. & Training Stds. Comm.	95 DOJ 1129	Nesnow Smith	04/12/96		
Patricia Josephine Bonanno v. Sheriffs' Ed. & Training Stds. Comm.	95 DOJ 1152	Chess	03/25/96		
Douglas Allan Stuart v. Sheriffs' Ed. & Training Stds. Comm.	95 DOJ 1189	Morrison	06/06/96		
Rick M. Evoy v. Criminal Justice Ed. & Training Stds. Comm.	95 DOJ 1235	Chess	03/25/96		
Windell Daniels v. Criminal Justice Ed. & Training Stds. Comm.	95 DOJ 1320	Gray	07/24/96		
Gregory Lee Daughtridge v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0027	Reilly	03/19/96		
Sherrie Ann Gainey v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0028	Becton	08/09/96		
Stuart Hugh Rogers v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0029	West	06/18/96		
Brian Thomas Craven v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0036	Gray	07/09/96		
Larry D. Weston v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0037	Nesnow Smith	06/12/96		
Carlton Gerald v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0068	Gray	03/26/96		
Ken Montie Oxendine v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0071	West	03/28/96		
James Leon Hunt v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0077	Phipps	07/25/96		
David Kent Knight v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0115	West	03/28/96		
Demetrius Arnez Brown v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0138	Becton	08/09/96		
Claude F. Nunnery v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0305	Gray	08/28/96		
John Charles Maloney v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0306	Nesnow Smith	08/16/96		
Jimmie L. Cooper v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0352	Morrison	07/12/96		
Jerry Glenn Monette v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0420	Morrison	07/26/96		
Carlton Gerald v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0432	Becton	08/07/96		
Warren Scott Nail v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0576	Becton	08/07/96		
George Willie Gilliam v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0656	Morrison	08/02/96		
Glenn R. Brammer v. Sheriffs' Ed. & Training Standards Comm.	96 DOJ 0839	Nesnow Smith	09/05/96		
Timothy Wayne Fulford v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0840	Nesnow Smith	09/16/96		
<i>Private Protective Services Board</i>					
Timothy A. Hawkins v. Private Protective Services Board	95 DOJ 1419	West	04/12/96		
William F. Combs v. Private Protective Services Board	96 DOJ 0022	West	03/22/96		
Randy C. Hoyle v. Private Protective Services Board	96 DOJ 0024	Nesnow Smith	06/10/96		
Robert A. Gibson v. Private Protective Services Board	96 DOJ 0386	Nesnow Smith	07/03/96		
Jimmy D. Matthews v. Private Protective Services Board	96 DOJ 0676	Reilly	07/11/96		
Johnnie Lee King v. Private Protective Services Board	96 DOJ 0677	Reilly	07/11/96		
Thomas R. Harris v. Private Protective Services Board	96 DOJ 0761	Reilly	07/11/96		
Private Protective Services Board v. Henry E. Byrd, Jr.	96 DOJ 0796	Mann	08/19/96		
Private Protective Services Board v. Charles T. Mathis	96 DOJ 0798	Mann	08/27/96		
<b>MEDICAL BOARD</b>					
Medical Board v. Martin A. Hatcher, M.D.	92 BME 0510	Gray	06/28/96	11:08 NCR 555	
<b>PUBLIC INSTRUCTION</b>					
Lavern K. Suggs v. NC Board of Education	95 EDC 0383	Nesnow Smith	03/13/96	11:01 NCR 50	
J.T.S. & T.S., Parents of E.M.S. v. Chapel Hill-Carrboro City Schl. Sys.	95 EDC 1194	Mann	04/12/96		
L.O. v. Charlotte-Mecklenburg Board of Education	96 EDC 0285	Mann	05/31/96		
Candace Ewanda Newsome v. Hertford County Board of Education	96 EDC 0344	Chess	05/15/96		
W. and G.B., on Behalf of C.B. v. Winston-Salem/Forsyth Cty. Schools	96 EDC 0349	Mann	09/03/96		
Cyvonne Rush Bryant v. NC State Board of Education	96 EDC 0591	Becton	09/11/96		
Blaise Malveau v. Cumberland County Board of Education	96 EDC 0613	Chess	08/14/96		

# CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Blaise Malveau v. Cumberland County Board of Education	96 EDC 0614	Chess	08/14/96	
John Barlow v. Watauga County Board of Education	96 EDC 0623	Reilly	07/24/96	
John L. Archer v. Department of Public Instruction	96 EDC 0678	Nesnow Smith	08/02/96	
Pamela F. Cummings v. Department of Public Instruction	96 EDC 0742	Nesnow Smith	08/16/96	
Susie Whitley/Brandon Whitley v. Charlotte-Mecklenburg Bd. of Ed.	96 EDC 0964	Chess	09/17/96	
<b>STATE PERSONNEL</b>				
<i>Department of Administration</i>				
Jimmie A. Hughes, Jr. v. Department of Administration	96 OSP 0008	Reilly	07/23/96	
Jonathan L. Fann v. Department of Administration, Admin. Personnel	96 OSP 0042	Gray	05/24/96	
Carlton Gerald v. State Capitol Police, Department of Administration	96 OSP 0116	Gray	04/25/96	
<i>Administrative Office of the Court</i>				
Ethel R. Tyson v. NC Judicial Dept., Administrative Office of the Court	96 OSP 0080	Nesnow Smith	03/15/96	
<i>Appalachian State University</i>				
Janice S. Walton v. Appalachian St University, Claude Cooper, Bill Ragan	96 OSP 0062	West	03/13/96	
Janice S. Carroll v. Appalachian St University, Claude Cooper, Bill Ragan	96 OSP 0063	West	03/07/96	
<i>Caldwell County</i>				
Blake C. Pace v. Caldwell County	96 OSP 0047	Morrison	04/01/96	
<i>NC Central University</i>				
Francina Y. Tate v. Chancellor Julius L. Chambers, NC Central Univ.	95 OSP 1432	Nesnow Smith	04/22/96	
<i>Central North Carolina School for the Deaf</i>				
Felicia S. Milton v. Central North Carolina School for the Deaf	95 OSP 1241	Chess	05/17/96	
<i>Department of Correction</i>				
Haydee Craver v. Department of Correction, Pender Correctional Inst.	95 OSP 1046	Gray	03/12/96	
Gregory Allen Jones v. Department of Correction, Supt. Bonnie Boyette	95 OSP 1290	Phipps	05/14/96	
Carolyn Check v. Department of Correction	95 OSP 1441	Nesnow Smith	09/19/96	
Calvia L. Hill v. Department of Correction, McCain Correctional Hospital	95 OSP 1460	Gray	05/17/96	
Alisha Louise Staley v. Randolph Correctional Center	96 OSP 0092	Gray	06/03/96	
Brenda Propst v. Foothills Correctional Institution	96 OSP 0199	Morrison	04/09/96	
Delon D. Solomon v. Department of Correction	96 OSP 0258	West	07/02/96	
Alisha Louise Staley v. Randolph Correctional Center	96 OSP 0261	Morrison	08/05/96	
Haydee C. Craver v. Department of Correction, Christopher Phillips	96 OSP 0348	Phipps	05/15/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0372**	Nesnow Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0373**	Nesnow Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0374**	Nesnow Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0375**	Nesnow Smith	07/05/96	
Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction	96 OSP 0376**	Nesnow Smith	07/05/96	
Calvia L. Hill v. Department of Correction, McCain Correctional Hospital	96 OSP 0397	Gray	08/15/96	
Tony R. Broffman v. Department of Correction	96 OSP 0625	Becton	08/29/96	
Mary Hargraves v. Department of Correction	96 OSP 0674	Nesnow Smith	09/05/96	
Timothy L. Willis v. Caswell Correctional Center	96 OSP 0715	West	07/30/96	
<i>Department of Crime Control and Public Safety</i>				
Jerry Lee Fields v. State Highway Patrol	94 OSP 1174* <sup>10</sup>	Gray	08/05/96	
Gene Wells v. Crime Control & Public Safety, State Highway Patrol	95 OSP 0249* <sup>9</sup>	Nesnow Smith	07/23/96	
Jerry Lee Fields v. State Highway Patrol	95 OSP 0836* <sup>10</sup>	Gray	08/05/96	
Gene Wells v. Crime Control & Public Safety, State Highway Patrol	95 OSP 1050* <sup>9</sup>	Nesnow Smith	07/23/96	

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<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<i>Durham County Health Department</i>				
Lylla D. Stockton v. Durham County Health Department	95 OSP 0176	West	07/02/96	
<i>East Carolina University</i>				
Bela E. Karvaly, Ph.D. v. ECU Bd. of Trustees, Ch. Richard R. Eakin	96 OSP 0150	Chess	05/08/96	
<i>Employment Security Commission</i>				
Gene S. Baker v. Gov. James B. Hunt, Jr., Ann Q. Duncan, Chairman, Employment Security Commission	93 OSP 0707	Becton	05/16/96	11:05 NCR 300
William Herbert Allen v. Employment Security Commission	94 OSP 1688	West	06/11/96	
Patricia Gary v. Employment Security Commission	95 OSP 0793	Chess	05/14/96	
Tonderlier Lynch v. Emp. Security Comm., Austin Quality Foods, Inc.	96 OSP 0275	Chess	05/21/96	
<i>Department of Environment, Health, and Natural Resources</i>				
Roberta Ann "Robin" Hood v. Environment, Health, & Natural Resources	95 OSP 0035	Reilly	04/09/96	
Kathy B. Vinson v. Dept. of Environment, Health, & Natural Resources	95 OSP 0203	Gray	09/18/96	11:13 NCR 1087
<i>Fayetteville State University</i>				
William C. Neal v. Fayetteville State University	95 OSP 0392	Nesnow Smith	04/22/96	
<i>Guilford County Area Mental Health, Developmental Disabilities and Substance Abuse</i>				
Stuart Klatte v. Guilford Cty Area MH/DD/SAS, St. Per Comm, OSP	95 OSP 1179	Nesnow Smith	07/19/96	11:10 NCR 865
<i>Department of Human Resources</i>				
Ophelia Webb v. Edard R. Inman, Dir. Alamance Cty DSS, Alamance Cty DSS, Alamance County, and DHR	96 OSP 0112	Gray	03/13/96	
Gail Marie Rodgers Lincoln v. DHR, DMH/DD/SAS-Cherry Hosp., Cherry Hospital	96 OSP 0159	Chess	06/17/96	
Johnny Earl Young v. Unit Head Director of Food & Nutrition	96 OSP 0217	Reilly	08/13/96	
Mary A. Boogaerts v. Cherry Hospital, Goldsboro, NC	96 OSP 0269	Becton	05/29/96	
Kelvin Parter v. Dorothea Dix Hospital	96 OSP 0294	Chess	08/07/96	
Johnny Earl Young v. Unit Head Director of Food & Nutrition	96 OSP 0543	Reilly	07/09/96	
Johnny Earl Young v. Unit Head Director of Food & Nutrition	96 OSP 0590	Reilly	07/09/96	
Kim A. Bell v. Walter B Jones Alcohol & Drug Abuse Treatment Center	96 OSP 0597	Becton	09/11/96	
<i>Buncombe County Department of Social Services</i>				
Kathy Davis v. Buncombe County Department of Social Services	95 OSP 1487	West	08/09/96	
<i>Caswell Center</i>				
Ramona C. Jenkins v. Department of Human Resources, Caswell Center	89 OSP 0411	Becton	03/26/96	
Ramona C. Jenkins v. Department of Human Resources, Caswell Center	91 OSP 0522	Becton	03/26/96	11:02 NCR 89
Franklin D. Sutton v. Department of Human Resources, Caswell Center	94 OSP 0766	Nesnow Smith	03/21/96	
<i>Durham County Department of Social Services</i>				
Jan E. Smith v. Durham County Department of Social Services	95 OSP 1121	Morrison	05/24/96	
<i>Halifax County Department of Social Services</i>				
Clairbel Thomas v. Halifax County DSS & Director, Halifax County DSS	95 OSP 0905	West	05/29/96	11:06 NCR 395
<i>Haywood County Department of Social Services</i>				
Carol Hubbard v. Haywood County Department of Social Services	95 OSP 1084	Reilly	08/30/96	11:13 NCR 1092
<i>Division of Medical Assistance</i>				
Harold Wiggins v. Division of Medical Assistance	95 OSP 1482	West	06/11/96	



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<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<i>O'Berry Center</i>				
Samuel Geddie v. O'Berry Center	96 OSP 0414	Morrison	06/13/96	
<i>Rockingham County Department of Social Services</i>				
Lorretta Lawson v. Rockingham County DSS	96 OSP 0471	West	06/13/96	
<i>Wake County Department of Social Services</i>				
Phylis Gilbert v. Wake County Department of Social Services	95 OSP 1238	Phipps	06/27/96	
<i>Department of Insurance</i>				
Larry W. Creech v. Department of Insurance	95 OSP 0631	Reilly	06/06/96	11:07 NCR 434
<i>Department of Labor</i>				
Kevin P. Kolbe, Sr. v. Department of Labor	95 OSP 0968	Morrison	03/14/96	11:01 NCR 58
<i>New Hanover County Board of Health</i>				
Tabandeh Zand v. New Hanover County Board of Health	95 OSP 1035	Nesnow Smith	03/01/96	
<i>Department of Public Instruction</i>				
Johnny Leak v. Public Schools of NC, Dept. of Public Instruction	96 OSP 0861	Phipps	09/05/96	
McLennard Jay v. Person County Schools	96 OSP 0862	Phipps	09/04/96	
<i>Sandhill Community College</i>				
Earl Levon Womack v. Sandhill Community College Bd. of Trustees	96 OSP 0573	Phipps	07/25/96	
<i>Office of the State Controller</i>				
Angela M. Terry v. Office of the State Controller	96 OSP 0402	Becton	08/07/96	
<i>North Carolina State University</i>				
Vernell Mitchell v. North Carolina Cooperative Extension	96 OSP 0132	Gray	05/10/96	
<i>Department of Transportation</i>				
Pearlie M. Simuel-Johnson v. Department of Transportation	94 OSP 0589 <sup>+1</sup>	Gray	03/01/96	
Dorothy J. Grays v. Div. of Motor Vehicles, Dept. of Transportation	94 OSP 1044	Reilly	04/12/96	11:03 NCR 173
Pearlie M. Simuel-Johnson v. Department of Transportation	95 OSP 0837 <sup>+1</sup>	Gray	03/01/96	
Lisa Ann Lee v. Department of Transportation	95 OSP 1099	Reilly	07/31/96	
Melvin Duncan v. Department of Transportation	95 OSP 1462	Morrison	03/08/96	
Greg Brown v. Department of Transportation	96 OSP 0048	Reilly	05/02/96	
Jesse Wayne Castle v. State Highway Maint., Guess Rd., Durham, NC	96 OSP 0087	Gray	04/15/96	
Archie Brooks v. W. F. Rosser, Department of Transportation	96 OSP 0239	Nesnow Smith	05/17/96	
Jessie L. Allen et al. v. DMV Enforcement Section	96 OSP 0408	Becton	08/12/96	
R.L. Singleton v. Department of Transportation	96 OSP 0683	Becton	08/12/96	
Stephanie Taylor v. Department of Motor Vehicles	96 OSP 0955	Becton	08/29/96	11:13 NCR 1095
<i>Tri-County Mental Health Complex</i>				
Deborah Heil v. Tri-County Mental Health Complex	95 OSP 1100	Nesnow Smith	03/22/96	
<i>University of North Carolina</i>				
Pamela B. Edwards v. University of North Carolina at Chapel Hill	95 OSP 0842	Chess	06/28/96	
Keith R. Cameron v. University of North Carolina at Chapel Hill	95 OSP 1060	Morrison	06/24/96	
Jerel H. Bonner v. School of Nursing UNC at Chapel Hill	96 OSP 0026	Gray	03/12/96	11:01 NCR 61
Bela E. Karvaly, Ph.D. v. UNC Bd. of Gov.. Pres. C.D. Spangler, Jr.	96 OSP 0151	Chess	05/08/96	

<sup>+</sup> Consolidated cases.

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**CONTESTED CASE DECISIONS**

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<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Carl E. Whigham v. UNC Hospitals at Chapel Hill	96 OSP 0248	Chess	06/11/96	
J. Scott Spears v. Ralph Pederson and UNC-C	96 OSP 0548	Chess	08/30/96	
<i>Wake County Board of Health</i>				
Debbie L. Whitley v. Env. Health Div. Wake Cty. Dept. of Health	96 OSP 1090	Nesnow Smith	09/05/96	
<b>STATE TREASURER</b>				
Donald B. Durham v. Teachers' & St. Employees Retirement Sys.	92 DST 1066	Chess	07/17/96	11:09 NCR 810
<b>UNIVERSITY OF NORTH CAROLINA</b>				
Sylvia Jeffries v. University of NC Hospitals at Chapel Hill	96 UNC 0067	Gray	04/16/96	
James E. Boudwin v. University of NC Hospitals at Chapel Hill	96 UNC 0343	Chess	07/22/96	
Rufus T. Moore Jr. v. UNC Hospital	96 UNC 0470	Reilly	08/12/96	
Marcia Spruill v. UNC Hospitals - Patient Accounts	96 UNC 0500	Becton	07/10/96	
Charles E. Houk v. UNC Hospitals	96 UNC 0588	Morrison	08/09/96	

STATE OF NORTH CAROLINA  
COUNTY OF FORSYTH

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
96 ABC 0447

N.C. ALCOHOLIC BEVERAGE CONTROL  
COMMISSION,

Petitioner,

v.

BEROTH OIL COMPANY  
T/A FOUR BROTHERS, FOOD STORE #208  
4975 REYNOLDA ROAD  
WINSTON-SALEM, NC 27106  
Respondent.

**RECOMMENDED DECISION**

The above-entitled matter was heard before Fred G. Morrison, Jr., Administrative Law Judge, Office of Administrative Hearings, on July 25, 1996, in High Point, North Carolina.

This hearing was initiated at the request of the Petitioner to determine whether the Respondent has violated the Alcoholic Beverage Control laws. In addition to filing a petition pursuant to G.S. 150B-23, the Petitioner served upon the Respondent a Notice of Alleged Violation alleging that the Respondent or its agents had violated the Alcoholic Beverage Control laws by employee selling malt beverages to Amy Michelle Casper, a person less than 21 years of age, on the licensed premises on or about September 7, 1995 at 8:05 p.m., in violation of G.S. 18B-302(a)(1).

Present at the hearing for the Petitioner was Melissa Owens, Assistant Counsel, ABC Commission, and Glenn Lassiter for the North Carolina Alcoholic Beverage Control Commission.

The Respondent, Beroth Oil Company, was represented by its counsel, T. Paul Hendrick, Hendrick Law Firm, 723 Coliseum Drive, Suite 101, Winston-Salem, North Carolina 27106-5326.

### **FINDINGS OF FACT**

From official documents in the file, sworn testimony of the witnesses and other competent and admissible evidence and stipulations, it is found as a fact that:

1. Respondent, Beroth Oil Company, Inc., T/A Four Brother's Food Store #208, Winston-Salem, North Carolina, held valid ABC permits on September 7, 1995, for off premises malt beverages, fortified and unfortified wine, with one prior ABC violation.
2. On September 7, 1995, at approximately 8:05 p.m., Amy Michelle Casper was working for and under the direct supervision of a Forsyth County municipal ABC agent. Casper entered Respondent's Store #208 located in Winston-Salem, N.C., went to the cooler area and picked up one 22 ounce bottle of Budweiser beer. Casper went to the cashier and paid \$1.16 for the beer. She was not asked for identification.
3. On September 7, 1995, Amy Michelle Casper was 18 years old. She was born April 29, 1977.
4. Notice of Alleged Violation was sent on November 3, 1995, advising Respondent to contact Melissa C. Owens if Respondent wanted to negotiate a settlement in compromise.
5. Ms. Owens and counsel for Respondent negotiated a settlement for Store #208 on November 22, 1995, which stipulated a suspended fifteen (15) day suspension upon payment of a three hundred fifty dollar (\$350.00) fine before January 2, 1996.
6. Respondent sent to the Commission the executed Offers in Compromise for Respondent's store's #208, and #205



and a check for Seven Hundred Dollars (\$700.00) in payment of fines agreed to by Respondent and Ms. Owens. Exhibit A. Respondent's check was negotiated by the Commission on November 29, 1995. Exhibit B.

7. Respondent was later advised by the Commission by a letter dated December 15, 1995, that the Commission's consideration of all Offers in Compromise resulting in suspensions and/or fines was postponed until further notice.
8. Respondent's Offer in Compromise for Store #208 was specifically rejected by the Commission on February 15, 1996.
9. The Commission returned Respondent's funds in the amount of Seven Hundred Dollars (\$700.00) on June 24, 1996. Exhibit C. Respondent returned the State's check to the Commission.
10. The Commission and Respondent acted in good faith on all matters related to the Notice of Violation and Offer in Compromise for Store #208.

#### CONCLUSION OF LAW

1. The North Carolina Alcoholic Beverage Control Commission has the authority to revoke or suspend the permits of a permittee for violations of Chapter 18B of the General Statutes, or any rule of the Commission.
2. The Respondent's employee sold malt beverages to Amy Michelle Casper, a person less than 21 years of age, on the licensed premises, on September 7, 1995 at 8:05 p.m., in violation of G.S. 18B-302(a)(1).
3. The facts of this case support the imposition of the Three Hundred Fifty Dollar (\$350.00) fine agreed to by the parties in November, 1995, as shown by the Offer in Compromise attached as Exhibit D.

#### RECOMMENDED DECISION

It is recommended that Respondent's pay three hundred fifty dollars (\$350.00) penalty in lieu of a fifteen (15) suspension of Respondent's Malt Beverage, Fortified Wine and Unfortified Wine permits for Store #208.

#### ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

#### NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. G.S. 150B-36(a).

The agency is required by G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the North Carolina Alcoholic Beverage Control Commission.

This the 30th day of August, 1996.

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Fred G. Morrison, Jr.  
Administrative Law Judge



7. In April, 1994, the Division posted a position vacancy for a Field Representative III in its Morehead City office. The person who vacated this position was performing regulatory duties. The Division made a conscious decision to continue its designation of this position as regulatory. The vacancy notice contained a stated preference for candidates with regulatory experience.

8. Petitioner applied for the Field Representative III position in the Morehead City Office. Among the other candidates for this position was Ted Tyndall, a male Field Representative I working in the Division's Washington Office in a position designated as regulatory.

9. Both Petitioner and Ted Tyndall met the job qualifications for the vacant Field Representative III position.

10. Petitioner holds a Bachelor of Arts Degree in early childhood education and a Masters of Education Degree in vocational rehabilitation counseling. Petitioner has some experience in regulatory projects while working for the Division, but has not worked in a position designated as regulatory.

11. Ted Tyndall holds Bachelor of Science and Masters Degrees in Biology. As a Field Representative I with the Division in its Washington office, Ted Tyndall worked for two years in permitting, a regulatory function. Prior to his employment as a Field Representative I, he worked for nine years in field biology while a university researcher, a senior scientist and project manager with an environmental consulting firm, or as an environmental technician with Carolina Power and Light Company.

12. Charles Jones, the Division's District Manager for the Morehead City office and Preston Pate, Assistant Division Director for Permitting and Enforcement, conducted structured interviews of eight (8) applicants for the vacant Field Representative III position. Following those interviews, District Manager Jones recommended to Division Director Roger Schecter that Ted Tyndall be promoted to the vacant position because of his scientific education and experience in biology and his experience in the Division's regulatory functions.

13. Prior to the position being filled, Petitioner and District Manager Jones discussed converting the vacant Field Representative III position from regulatory to planning. Petitioner requested that the position be converted to a planning position or that she be allowed to train into the regulatory position since she was generically qualified for the position. On February 21, 1994, District Manager Charles Jones wrote to Division Director Roger Schecter indicating that he had accomplished an internal review and evaluation of whether to leave the vacant Field Representative III position in regulatory or to consider changing it to planning. He recommended that it remain a regulatory position.

14. Division Director Roger Schecter followed District Manager Jones's recommendation and did not convert the primary duties of the vacant position from regulatory to planning. At the time of this position vacancy, the Division had one Field Representative III planner working in its Washington, North Carolina office. Division Director Schecter presented evidence during his testimony in this contested case hearing that he had a long range plan for the Division to have two planners in Field Representative III positions. He communicated this plan to Petitioner in a memo dated September 26, 1994 in which he proposed to reclassify Petitioner from a Field Representative II to a Field Representative III, both in planning.

15. In addition to the Field Representative III planning position in its Washington office, the Division at one time had another Field Representative III planning position occupied by Haskell Rhett, a male. Haskell Rhett vacated that position sometime prior to April, 1993. In April, 1993, Petitioner wrote to Division Director Schecter, raising the issues of inequity in pay grades for planners in the Division and lack of promotional opportunities for planners.

16. The Division has the ability and discretion to switch the duties of a Field Representative III position from planning to regulatory or from regulatory to planning. When Haskell Rhett vacated his Field Representative III planning position prior to April, 1993, the Division changed that position's designation from planning to regulatory.

17. From 1988 through the date of the award of this promotion to Ted Tyndall in 1994, none of the planners on the Division staff, all of whom are classified as Field Representatives I, II, or III, were given promotional opportunities. Among those Field Representatives whose positions are designated regulatory, the current most senior representative who applied has received the first available promotion to a higher level Field Representative position from 1988 through the date of this contested case hearing.



18. At the time this Field Representative III position was awarded to Ted Tyndall, Petitioner was the most senior Field Representative who applied and was qualified for the position.

19. District Manager Jones testified during the hearing of this contested case, that the Division could have redesignated the vacant Field Representative III position to planning, promoted Petitioner into that position, and then hired Ted Tyndall into Petitioner's vacant Field Representative II position, redesignating it as regulatory. Both Petitioner and Ted Tyndall then would have received two (2) pay grade promotions. District Manager Jones and Division Director Schechter were aware that Manager Jones's recommendation, followed by Director Schechter's decision, to keep the vacant Field Representative III position's regulatory designation essentially eliminated Petitioner from the promotion because of her lack of scientific education and regulatory experience.

20. After Petitioner began with the Division in February, 1988 as a Field Representative II, she was assigned an office to be shared with a male, Jim Mercer, a Field Representative III with regulatory responsibilities. In 1988, she went to her supervisor, District Manager Charles Jones, on various occasions to complain about Jim Mercer's treatment of her in the shared office. She complained that Jim Mercer was condescending toward her, treating her as his underling and referring to her as the girl. She complained that Jim Mercer generally made her work environment unpleasant by talking down about women, in addition to his direct actions toward her.

21. Jim Mercer did not testify during this contested case hearing. Petitioner's testimony is the only evidence of the hostile work atmosphere and treatment she received from her office-mate Field Representative III Jim Mercer. Her testimony that she complained to her supervisor, District Manager Charles Jones, and to Assistant Division Director Preston Pate is corroborated by their testimonies in this hearing. Having observed Petitioner's demeanor, and having considered the totality of the evidence in this contested case, I find her testimony on this issue credible.

22. Both District Manager Jones and Assistant Division Director Pate were aware of the treatment of Petitioner by Jim Mercer but took no action to correct it from 1988 until 1993. District Manager Jones and Assistant Division Director Pate joked that a chalk line between Jim Mercer and Petitioner would have to be drawn on the floor of the shared office to resolve the problem.

23. Petitioner's request for relief from this situation finally was granted when District Manager Jones moved Petitioner out of the shared office in 1993. He testified during this contested case hearing that his reason for making the move was because the relationship between Jim Mercer and Petitioner in the shared office had become explosive.

24. Several facts shed light on the attitudes of the supervisory personnel in Petitioner's office and the general atmosphere in the office:

1. Assistant Division Director Preston Pate announced a going away party for David Noble, who was vacating the position Petitioner applied for, and made the statement that no assholes and no women were invited.
2. Assistant Division Director Pate made the statement, upon discovering the salary of a female planner who was working in Tyrrell County, that "this little girl is making more money than I am".
3. At a staff meeting in Raleigh, Assistant Division Director Pate asked two female employees to make coffee when they came into the room; he then asked, "what's wrong with the damn women around here?".
4. Some of the office staff attend a cheers party on Wednesday nights at the home of Charles Pigott, a Field Representative I. No women employees are invited. District Manager Charles Jones has taken action designed to have Charles Pigott's Field Representative I position upgraded to a Field Representative II.
5. At the time Petitioner filed the present grievance, District Manager Jones had not taken the same action toward getting Petitioner's position upgraded, even though she has requested that it be considered.

**CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, I make the following conclusions of law.

1. The parties properly are before the Office of Administrative Hearings.

2. Petitioner has alleged sex discrimination in Respondent's failure to promote her to a Field Representative III position and therefore bears the burden of proof, by the greater weight of the evidence, that she was not selected for the position because of her sex. North Carolina Department of Correction v. Gibson, 308 N.C. 131, 301 S.E. 2d 78 (1983). While the burden of production may shift during the analysis of this case, the ultimate burden of persuasion remains with Petitioner. St. Mary's Honor Center v. Hicks, U.S. 113 S. Ct. 2742 (1993).

3. The framework for analysis of the evidence produced in this hearing has been established by our courts. The following standards are applicable here:

1. The claimant carries the initial burden of establishing a prima facie case of discrimination.
2. The burden shifts to the employer to articulate some legitimate nondiscriminatory reason for the applicant's rejection.
3. If a legitimate nondiscriminatory reason for rejection has been articulated, the claimant has the opportunity to show that the stated reason for rejection was, in fact, a pretext for discrimination. (citations omitted). Gibson, 308 N.C. at 137, 301 S.E. 2d at 82.

4. Petitioner's status as a female person places her in a protected class for purposes of gender discrimination. She applied and was qualified for a vacant Field Representative III position. She was not selected for the position. A male person was selected for the position. Petitioner thus has established a prima facie case of gender discrimination.

5. Respondent has produced evidence that it hired the male candidate over Petitioner because he has undergraduate and graduate degrees in biology and approximately eleven years of biological field experience, two with the agency in a regulatory capacity as a Field Representative I and nine outside of this agency. Respondent thus has articulated a legitimate nondiscriminatory reason for its decision to promote the male candidate over Petitioner and thereby has produced evidence sufficient to rebut the presumption arising from the prima facie case of gender discrimination established by Petitioner.

6. The totality of the evidence in this contested case demonstrates that Respondent's legitimate nondiscriminatory reasons for promoting a male candidate and rejecting Petitioner's application are pretext for discrimination against her because of her gender.

**RECOMMENDED DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby recommended that Petitioner receive back pay and all benefits which she would have received had she been promoted to the position of Field Representative III, formerly held by David Noble, in July, 1994. It is recommended that she receive front pay until such time that she is promoted or reclassified to a Field Representative III position, and that she receive attorney's fees in a reasonable amount to be determined by the State Personnel Commission upon submission of appropriate affidavits.

**ORDER**

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

**NOTICE**

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. G.S. 150B-36(a).

*CONTESTED CASE DECISIONS*

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The agency is required by G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the State Personnel Commission.

This the 18th day of September, 1996.

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Beecher R. Gray  
Administrative Law Judge



## RECOMMENDED DECISION

This matter came on for hearing before the undersigned administrative law judge on April 16, 1996, in Waynesville.

Mr.-Randal Seago represented the petitioner. Mr. Kirk Randleman represented the respondent. The petitioner testified and introduced three exhibits. The respondent presented five witnesses and introduced six exhibits. Proposed Findings of Fact were filed by the petitioner on August 26, 1996.

## ISSUES

1. Was the petitioner dismissed for just cause?
2. Was the petitioner's dismissal the result of discrimination based upon her handicapping condition?

## FINDINGS OF FACT

1. Carol Hubbard was employed by the Haywood County Department of Social Services in the years 1994 and 1995 as a clinical social worker. Petitioner was at the time of her employment a citizen and resident of Haywood County, North Carolina, and was at the time of the hearing a citizen and resident of Buncombe County, North Carolina.
2. As a clinical social worker the petitioner had a duty to provide treatment for families who were clients of the respondent and to maintain such records of her performance of duties and other matters as were required by the agency and by state law.
3. Beginning January, 1995, the respondent, by and through its supervisors and managers, directed the petitioner to complete documentation necessary to accomplish closure of certain cases within the Haywood County Department of Social Services.
4. On February 8, 1995, the petitioner advised the respondent that she was the subject of certain disabling conditions and that she required reasonable accommodations. In particular, the respondent advised that she was disabled by encephalitis, that she had suffered from encephalitis in the past, and that encephalitis resulted in psychomotor dysfunction. At that time she provided to the director of the Haywood County Social Services Department records of the Vocational Rehabilitation agency concerning the period of her employment with the respondent. The psychomotor dysfunction disability that the petitioner referred to in her request for accommodations was referred to in the Vocational Rehabilitation records. In particular, her weakness in the ability to convert information to written words was noted.
5. On March 10, 1995, the respondent took a first step disciplinary action and asserted unacceptable job performance. The respondent indicated to the petitioner that she had failed to close cases as directed in memos from her supervisor.
6. On May 3, 1995, the petitioner received a second step disciplinary action related to her job performance. The second step disciplinary action was delivered to the petitioner in the form required by the respondent's policies.
7. On May 15, 1995, the respondent received a letter from the petitioner's treating psychologist, Dr. Mary Wheeler. Dr. Wheeler diagnosed the petitioner as having a major depressive episode.

8. On May 23, 1995, the petitioner received a third step disciplinary action. The third step disciplinary action was taken according to the policies of the respondent.
9. On June 12, 1995, the Director of the Haywood County DSS received a letter from the petitioner's treating psychologist, Dr. Mary Wheeler. The letter established two things: first, that she was subject to a disabling condition; secondly, that with reasonable accommodations she could continue to perform the essential functions of her job. The psychologist wrote and it is found as a fact that:

You have requested that evaluate Carol's disabilities and the effects they have on her ability to perform the essential functions of her position. Since I am not a VR counselor, I will direct my comments mainly to the disability caused by the Axis diagnoses listed above. Nevertheless, I would also mention that Carol has worked in the social work field for many years without specific accommodations for the disability caused by psychomotor dysfunction secondary to post-encephalitis. It appears that this disability became a noticeable problem when Carol had to quickly remedy a backlog in paper work that everyone in her department was experiencing. Apparently, she had asked for accommodations in January, 1993, when she started getting behind. When a computer was denied, she continued to fall further behind and has not been able to catch up as quickly as others. In the past few months, she has reported to me feeling singled out and Observed more than others, and this has contributed to her anxiety and depression. As she became more anxious about her performance, she has been less able to function and more aware of her job being threatened as a result, and then felt more anxious.

In regard to potential limitations in her work, Carol's psychological symptoms would certainly exacerbate her primary disability of psychomotor retardation and decrease her ability to function in relations to those tasks which require attention, concentration, energy and self-confidence.

You have asked what type of reasonable accommodations are needed at this time. I would hope that there could be some turnaround in the vicious cycle that has developed. This would not be a time to expect her to easily or quickly learn a new skill that requires intense concentration and coordination, such as using a computer for her paperwork. However, it appears that is what would be most helpful at this time. Your understanding that taking time to learn computer skills would probably result in a short-term loss of efficiency would probably be helpful to her. I believe that as her medication becomes adjusted she will have more ability to concentrate and more energy to apply to this task.

10. On July 6, 1995, the employer terminated the petitioner's employment.

#### CONCLUSIONS OF LAW

1. The petitioner was a permanent employee of the Haywood County Department of Social Services and therefore subject to the protection of the State Personnel Act, GS Chapter 126.
2. The Petitioner is a "handicapped person" as defined in G.S. 168A-3(4) and a "qualified handicapped person" under G.S. 168A-3(9).
3. The respondent failed to provide reasonable accommodations to the petitioner by failing to make accommodations which would have enabled her to perform the job of Clinical Social Worker. Reasonable accommodations would include providing a period of time to learn computer skills and to adjust to her medication in order to allow the petitioner a period of time to become proficient at the computer.
4. The petitioner's dismissal was the result of discrimination based on a handicapping condition.
5. The petitioner was dismissed without just cause.

#### RECOMMENDED DECISION

It is recommended that the petitioner be reinstated with back pay and attorney fees. It is also recommended the respondent provide reasonable accommodation to the petitioner.

**NOTICE**

The final decision in this contested case will be made by the State Personnel Commission. The parties have the right to file exceptions to this recommended decision and to present written arguments to this agency. The agency will mail a copy of the final decision to the parties, the attorneys of record and the Office of Administrative Hearings.

This the 3rd day of August, 1996.

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Robert Roosevelt Reilly, Jr.  
Administrative Law Judge



STATE OF NORTH CAROLINA

COUNTY OF WAKE

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
96 OSP 0955

STEPHANIE TAYLOR,  
Petitioner,

v.

N.C. DEPARTMENT OF MOTOR VEHICLES,  
Respondent.

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**RECOMMENDED DECISION**

This matter was heard before the undersigned administrative law judge in Raleigh, North Carolina on June 12 and 13, 1996.

**APPEARANCES**

For Petitioner: Ormand Harriott, Attorney at Law, Raleigh, North Carolina.

For Respondent: C. Norman Young, Associate Attorney General, N.C. Department of Justice, Raleigh, North Carolina.

**ISSUES**

1. Whether the Respondent had just cause to dismiss the Petitioner.
2. Whether the Petitioner is handicapped as defined in N.C. Gen. Stat. §168A-3 and whether the Respondent discriminated against the Petitioner on the basis of her handicap.
3. Whether the Petitioner was properly separated from State employment as a result of unavailability for work.

**STATUTES AND RULES INVOLVED**

N.C. Gen. Stat. §126-4(7a)  
N.C. Gen. Stat. §126-35  
N.C. Gen. Stat. §168A-3  
25 NCAC 1D .0519  
25 NCAC 1E .1400  
25 NCAC 1J .0604

**EXHIBITS**

The following exhibits offered by the Petitioner were received in evidence:

1, 2, 3, 4, 6, 20, 21, 23, 24, 25, 26, 30, 32, 33, 34, 38, 39, 43, 44, 47, 48, 52, 53, 55, 56, 57, 58, 61, 70, 71, 73, 75, 76, 82, 83, 97, 98, 101, 102, 110, 111, 112, 114, 118, 119, 124, 127, 129, 131, 132, and 133.

The following exhibits offered by the Respondent were received in evidence:

1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21.

Based upon the official documents in the file, sworn testimony of the witnesses, and other competent and admissible evidence, the undersigned makes the following:

**FINDINGS OF FACT**

1. The Petitioner was employed by the Respondent as a data entry operator for a period of approximately four years

from August 15, 1990, until November, 1994.

2. The Petitioner's employment records indicate that she is an excellent data entry operator.
3. On August 6, 1992, the Petitioner received the first of several warnings regarding her absences from work. The Petitioner's absences were exceeding the number of days of leave available to her.
4. During 1993, the Petitioner's absenteeism resulted in her pay being docked (leave without pay) for the months of April, May, June, August September, October, and December. She received an Oral Warning in June, 1993 regarding her absenteeism. A Written Warning prepared in December, 1993 was not given to the Petitioner after she met with the Respondent's Commissioner, Alexander Killens.
5. In January, 1995, the Respondent requested that the Petitioner have her physician provide a medical statement regarding the nature and duration of her illness. The Petitioner was also asked to sign a medical release form so that the Respondent could have medical information from the Petitioner's doctor released to it.
6. The Petitioner refused to sign a medical release form because she did not want all of her medical records released to the Respondent and no one specified or explained to her exactly which documents the Respondent wanted. The medical excuses the Petitioner presented to the Respondent did, however, contain a permission to release medical information statement that the Petitioner signed on several different occasions.
7. During the latter part of June, 1994, the Petitioner was diagnosed as suffering from episodic urticaria/angioedema, possibly related to a food allergy.
8. On July 1, 1994, the Petitioner filed a Complaint and Motion for Domestic Violence Protective Order against her husband, Anthony Taylor. A hearing was scheduled for July 11, 1994.
9. On July 5, 1994, the Petitioner had an allergic reaction which caused her face, throat, and tongue to swell. She was placed on a trial dosage of hydroxyzine.
10. On July 6, 1994, the Petitioner's supervisor, Eula M. Williams, counseled the Petitioner about "docking of time, coming to work late and absenteeism." The written documentation of the counseling session noted that the Petitioner had been docked during the months of February, March, April, May, and June of 1994.
11. The Petitioner told Ms. Williams that her absences were due to illness. The Petitioner was left with the impression that Ms. Williams did not believe the Petitioner was really ill.
12. Ms. Williams testified that she did not believe that the Petitioner was always as sick as she portrayed. Ms. Williams felt that there were occasions when the Petitioner could have come in to work and utilized the sick room at work when she was not feeling well.
13. In July, 1994, a dispute regarding the Petitioner's time sheet arose. As a result of this dispute, the Petitioner was no longer allowed to work overtime to make up hours she had missed from work.
14. The Respondent referred the Petitioner to the Employees' Assistance Program. Through that program, the Petitioner was referred to a Psychiatrist and began undergoing counseling and treatment for depression.
15. During the time period between July 7, 1994 and July 18, 1994, the Petitioner was absent for the following periods:

July 7	Dentist	0.6 hours
July 8	Sick-arrived late	4.5
July 11	Went to Court	3.0
July 12	Sick	8.0
July 13	Sick	8.0
July 15	Sick	8.0
July 18	Sick	<u>8.0</u>
		40.1

16. On July 22, 1994, Ms. Williams issued the Petitioner a Written Warning in which it was asserted that the Petitioner's "attendance record is inexcusable and cannot be allowed to continue in this manner under any circumstances." The Petitioner was advised that an immediate correction of her attendance pattern was necessary if she wanted to continue her employment with the Respondent.

17. During the period from August 1, 1994 through September 2, 1994, the Petitioner missed the following time from work:

8/1, 4 & 5	Sick	24.0 hours
8/15, 16, 17, 18 & 19	Sick	40.0
8/25	Sick	8.0
8/29, 30 & 31	Sick	24.0
9/1 & 2	Sick	<u>16.0</u>
		112.0

18. On September 7, 1994, Ms. Williams issued the Petitioner a Second Written Warning regarding her absenteeism and the docking of the Petitioner's time. The Petitioner was informed that her "attendance record is not acceptable and is inexcusable." The Petitioner was further told that "any future docking will not be tolerated."

19. In response to the Second Written Warning, the Petitioner again explained that she was ill. She also informed the Respondent that she does not know from day to day when she will be affected by her urticaria.

20. The Petitioner was asked if she would consent to having her doctor provide statements regarding her illness, explaining whether her condition "is long term or short term, whether it renders her unable to perform her duties as a Data Entry Operator, whether her medication produces the same effect." The Petitioner refused to consent to the Respondent contacting her physician but continued to present medical excuses from her doctor regarding some of her absences from work.

21. On October 14, 1994, the Petitioner received a Final Written Warning regarding her absenteeism and the docking of her time. The Petitioner was informed that "failure to initiate any necessary remedial action to improve your work attendance to an acceptable and continuous level will result in termination of your employment. . . ."

22. The Petitioner was absent from work 67.3 hours during the period from October 14, 1994 through October 18, 1994.

23. The Petitioner did not report to work during the period from October 28, 1994 through November 16, 1994.

24. Ms. Williams called the Petitioner on November 14, 1994 and told her that she needed to come in for a Predissmissal Conference. The Petitioner asked Ms. Williams what a Predissmissal Conference was and wanted to know when had they dismissed her. Ms. Williams told the Petitioner that they would discuss that when she came in. The Petitioner told Ms. Williams that she had a doctor's appointment on November 15, 1994.

25. Ms. Williams did not give the Petitioner a specific time or date for the conference.

26. The Respondent did not notify the Petitioner in writing of her proposed termination prior to scheduling a predissmissal conference.

27. The Petitioner did not report to work on November 15, 1994. She called in after she went to her appointment with her doctor and informed the Respondent that she was having medical problems.

28. The Petitioner spoke with Addie M. Avery, the Assistant Director of Driver License Section on November 15, 1994, and asked her what a Predissmissal Conference was.

29. On November 16, 1994, the Respondent sent the Petitioner a letter informing her that "[d]ue to unexcused absences from work since July 6, 1994, [her] employment with the Division of Motor Vehicles, Driver License Section, is terminated effective at the close of workday, November 16, 1994."

Based on the foregoing Findings of Fact, the undersigned Administrative Law Judge makes the following:



CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has jurisdiction over the parties and the subject matter pursuant to Chapters 126 and 150B of the North Carolina General Statutes and has the authority to issue a recommended decision to the State Personnel Commission which shall make the final decision.
2. North Carolina General Statutes §126-35 states that "[n]o career State employee subject to the State Personnel Act shall be discharged, suspended, or demoted for disciplinary reasons, except for just cause." "Just cause" dismissals are defined in the North Carolina Administrative Code in Title 25, r. 1J.0604. That section states:

There are two bases for the discipline or dismissal of employees under the statutory standard of "just cause" as set out in G.S. 126-35. These two are:

- (1) Discipline or dismissal imposed on the basis of unacceptable job performance;
- (2) Discipline or dismissal imposed on the basis of unacceptable personal conduct.

3. Unacceptable personal conduct is defined in relevant part as "the willful violation of known or written work rules." 25 NCAC 1J .0604(d)(4) (Effective March 1, 1994). Unacceptable job performance is defined as "the failure to satisfactorily perform job requirements as specified in the job description, work plan, or as directed by management." 25 NCAC 1J .0604(c) (Effective March 1, 1994). In a dismissal based upon unsatisfactory job performance, the employee must receive a minimum number of warnings prior to dismissal. (State Personnel Manual, Sec. 8).
4. Chronic absenteeism from the workplace can result in disruption of the work flow and therefore, is a legitimate employer concern. Depending upon the amount of leave available to an employee, chronic absenteeism can result in termination from employment based upon either "just cause" or "unavailability for work." When medical issues are concerned, the Family and Medical Leave Act ("FMLA") comes into play. There are also situations where the absences may be the result of a handicap that the employer must make a reasonable attempt to accommodate under the Americans with Disabilities Act ("ADA").
5. The Respondent contends that it dismissed the Petitioner due to her unavailability for work. A termination based upon unavailability for work requires that the employer do the following: a) notify an employee of the proposed separation due to unavailability; b) notify the employee of the efforts taken to avoid separation, and why the efforts were unsuccessful; c) give the employee an opportunity to propose alternative methods of accommodation; d) respond to the employee's alternative proposals regarding accommodation. This procedure was not followed with the Petitioner.
6. Whether the Respondent had just cause to terminate the Petitioner depends upon whether the FMLA and/or ADA are applicable to the Petitioner's circumstances.
7. Since the Petitioner was being docked, she had obviously exhausted all of her available paid leave. The record does not indicate how many days the Petitioner missed from work due to medical problems in 1994. If her medical absences exceeded the twelve weeks provided for by the FMLA, then her absences could be considered excessive and cause for termination based upon just cause when the appropriate warnings had been issued, which was the case here.
8. The medical records the Petitioner provided to the Respondent were not sufficient to establish that she has a handicapping condition. The additional medical records produced as evidence at the hearing also fail to establish that the Petitioner is handicapped.
9. Even if the Respondent had just cause to dismiss the Petitioner for excessive absenteeism, it did not follow the proper procedure. The Petitioner was not given written notice of the reasons for her proposed dismissal. Instead she was told she needed to come in for a Predissmissal Conference. There were no exigent circumstances that required the Respondent to act immediately in regard to its determination that the Petitioner's continued absence from work warranted dismissal.
10. The Petitioner had the burden of showing that she had not exceeded the number of absences allowed by the FMLA or that she had a handicapping condition that the Respondent could have reasonably accommodated. The Petitioner

failed to meet either burden of proof.

11. Since the Petitioner failed to prove either that her absences were covered by the FMLA or that she had a handicap as that term is defined in N.C. Gen. Stat. §168A-3, the Respondent had grounds to dismiss her on the basis of either unavailability for work or just cause based upon the Petitioner's absenteeism.
12. Pursuant to the State Personnel Commission's rules, procedural violations of the type involved in this case can entitle a petitioner to an award of back pay or attorneys' fees, or both for such a period of time as the Commission determines is appropriate.

### **RECOMMENDED DECISION**

The North Carolina State Personnel Commission ("Commission") will make the Final Decision in this contested case. It is recommended that the Commission adopt the Findings of Fact and Conclusions of Law set forth above and uphold the Respondent's decision to dismiss the Petitioner, but as a result of the procedural violations, award the Petitioner back pay or attorneys' fees, or both for such a period of time as the Commission determines is appropriate.

### **ORDER**

It is hereby ordered that the agency serve a copy of the Final Decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statutes section 150B-36(b).

### **NOTICE**

Before the State Personnel Commission makes the FINAL DECISION, it is required by North Carolina General Statutes section 150B-36(a) to give each party an opportunity to file exceptions to this RECOMMENDED DECISION, and to present written arguments to those in the agency who will make the final decision.

The Commission is required by North Carolina General Statutes section 150B-36(b) to serve a copy of the FINAL DECISION on all parties and to furnish a copy to the Parties' attorney of record.

This the 29th day of August, 1996.

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Brenda B. Becton  
Administrative Law Judge

***NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM***

***The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.***

## TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE	DEPARTMENT	LICENSING BOARDS	CHAPTER
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1	Administration	Acupuncture	1
2	Agriculture	Architecture	2
3	Auditor	Auctioneers	4
4	Commerce	Barber Examiners	6
5	Correction	Certified Public Accountant Examiners	8
6	Council of State	Chiropractic Examiners	10
7	Cultural Resources	General Contractors	12
8	Elections	Cosmetic Art Examiners	14
9	Governor	Dental Examiners	16
10	Human Resources	Dietetics/Nutrition	17
11	Insurance	Electrical Contractors	18
12	Justice	Electrolysis	19
13	Labor	Foresters	20
14A	Crime Control & Public Safety	Geologists	21
15A	Environment, Health, and Natural Resources	Hearing Aid Dealers and Fitters	22
16	Public Education	Landscape Architects	26
17	Revenue	Landscape Contractors	28
18	Secretary of State	Marital and Family Therapy	31
19A	Transportation	Medical Examiners	32
20	Treasurer	Midwifery Joint Committee	33
*21	Occupational Licensing Boards	Mortuary Science	34
22	Administrative Procedures	Nursing	36
23	Community Colleges	Nursing Home Administrators	37
24	Independent Agencies	Occupational Therapists	38
25	State Personnel	Opticians	40
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		Physical Therapy Examiners	48
		Plumbing, Heating & Fire Sprinkler Contractors	50
		Podiatry Examiners	52
		Professional Counselors	53
		Practicing Psychologists	54
		Professional Engineers & Land Surveyors	56
		Real Estate Appraisal Board	57
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work Certification	63
		Soil Scientists	69
		Speech & Language Pathologists & Audiologists	64
		Substance Abuse Professionals	68
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**Note:** Title 21 contains the chapters of the various occupational licensing boards.





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This index provides information related to notices, rules and other documents published in the Register. The information provided below includes notices and rules published on or after December 1, 1995 and will be cumulative through March 1997. For assistance contact the Rules Division at 919/733-2678.

Fiscal Note: S = Rule affects the expenditure or distribution of state funds. L = Rule affects the expenditure or distribution of local government funds. SE = Rule has a substantial economic impact of at least \$5,000,000 in a 12-month period. \* = Rule-making agency has determined that the rule does not impact state or local funds and does not have a substantial economic impact. See G.S. 150B-21.4.

## ACUPUNCTURE LICENSING BOARD

21 NCAC 01 .0301		10:22 NCR 2860								
21 NCAC 01 .0705	10:17 NCR 2228		10:22 NCR 2834	*	Approve	04/18/96	*		11:04 NCR 220	
21 NCAC 01 .0709	10:17 NCR 2228		10:22 NCR 2834	*	Approve	04/18/96	*		11:04 NCR 220	

## ADMINISTRATIVE HEARINGS

### Hearings Division

26 NCAC 03 .0301	11:03 NCR 110		11:09 NCR 588	*						
26 NCAC 03 .0302	11:03 NCR 110		11:09 NCR 588	*						
26 NCAC 03 .0303	11:03 NCR 110		11:09 NCR 588	*						
26 NCAC 03 .0304	11:03 NCR 110		11:09 NCR 588	*						
26 NCAC 03 .0305	11:03 NCR 110		11:09 NCR 588	*						

### Rules Division

26 NCAC 02C .0102	11:09 NCR 570		11:13 NCR 1058	*						
26 NCAC 02C .0103	11:09 NCR 570		11:13 NCR 1058	*						
26 NCAC 02C .0111	11:09 NCR 570		11:13 NCR 1058	*						
26 NCAC 02C .0307	11:09 NCR 570		11:13 NCR 1058	*						
26 NCAC 02C .0401	11:09 NCR 570		11:13 NCR 1058	*						
26 NCAC 02C .0502	11:09 NCR 570		11:13 NCR 1058	*						

## ADMINISTRATION

### State Building Commission

1 NCAC 30G .0101		11:04 NCR 194								
1 NCAC 30G .0102		11:04 NCR 194								
1 NCAC 30G .0103		11:04 NCR 194								

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1 NCAC 30G .0104		11:04 NCR 194								
1 NCAC 30G .0105		11:04 NCR 194								
<b>AGRICULTURE</b>										
2 NCAC 09C .0701	10:24 NCR 3056	11:05 NCR 282	11:06 NCR 324	*						
2 NCAC 09C .0702	10:24 NCR 3056	11:05 NCR 282	11:06 NCR 324	*						
2 NCAC 09C .0704	10:24 NCR 3056	11:05 NCR 282	11:06 NCR 324	*						
2 NCAC 48A .0206	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48A .0211	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48A .0214	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48A .1103	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48A .1110	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48B .0112	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48B .0114	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48B .0119	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 48B .0120	10:24 NCR 3056		11:06 NCR 324	*						
2 NCAC 52B .0201	10:24 NCR 3056		11:06 NCR 324	*						
<b>Plant Conservation Board</b>										
2 NCAC 48F .0301	11:07 NCR 407		11:11 NCR 883	*						
2 NCAC 48F .0302	11:07 NCR 407		11:11 NCR 883	*						
2 NCAC 48F .0304	11:07 NCR 407		11:11 NCR 883	*						
2 NCAC 48F .0305	11:07 NCR 407		11:11 NCR 883	*						
2 NCAC 48F .0306	11:07 NCR 407		11:11 NCR 883	*						
<b>COMMERCE</b>										
4 NCAC 01E	11:09 NCR 569									
4 NCAC 01F	11:09 NCR 569									
4 NCAC 01H	11:09 NCR 569									
4 NCAC 01I	11:09 NCR 569									
4 NCAC 01J	11:09 NCR 569									



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					Action	Date				
4 NCAC 01K	11:09 NCR 569									
<b>Community Assistance</b>										
4 NCAC 01K .0501	11:09 NCR 569									
4 NCAC 01K .0502	11:09 NCR 569									
4 NCAC 01K .0503	11:09 NCR 569									
4 NCAC 01K .0504	11:09 NCR 569									
4 NCAC 01K .0505	11:09 NCR 569									
4 NCAC 01K .0506	11:09 NCR 569									
4 NCAC 19L .0401	11:09 NCR 569									
4 NCAC 19L .0403	11:09 NCR 569									
4 NCAC 19L .0404	11:09 NCR 569									
4 NCAC 19L .0407	11:09 NCR 569									
4 NCAC 19L .0501	11:09 NCR 569									
4 NCAC 19L .0502	11:09 NCR 569									
4 NCAC 19L .0505	11:09 NCR 569									
4 NCAC 19L .0802	11:09 NCR 569									
4 NCAC 19L .0805	11:09 NCR 569									
4 NCAC 19L .0901	11:09 NCR 569									
4 NCAC 19L .0906	11:09 NCR 569									
4 NCAC 19L .0907	11:09 NCR 569									
4 NCAC 19L .0911	11:09 NCR 569									
4 NCAC 19L .1002	11:09 NCR 569									
4 NCAC 19L .1004	11:09 NCR 569									
4 NCAC 19L .1009	11:09 NCR 569									
4 NCAC 19L .1011	11:09 NCR 569									
4 NCAC 19L .1301	11:09 NCR 569									
4 NCAC 19L .1302	11:09 NCR 569									
4 NCAC 19L .1303	11:09 NCR 569									

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4 NCAC 19L.1701	11:09 NCR 569									
4 NCAC 19L.1702	11:09 NCR 569									
4 NCAC 19L.1703	11:09 NCR 569									
4 NCAC 19L.1801	11:09 NCR 569									
4 NCAC 19L.1802	11:09 NCR 569									
4 NCAC 19L.1803	11:09 NCR 569									
4 NCAC 19L.1804	11:09 NCR 569									
4 NCAC 19L.1805	11:09 NCR 569									
4 NCAC 19L.1900	11:09 NCR 569									
<b>Credit Union Division</b>										
4 NCAC 06C.0205	10:18 NCR 2398									
4 NCAC 06C.0407	10:18 NCR 2398									
4 NCAC 06C.0409	10:18 NCR 2398									
<b>Energy</b>										
4 NCAC 12C.0007					Approve	07/18/96			11:10 NCR 843	
<b>State Ports Authority</b>										
4 NCAC 13A.0101	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13A.0102	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13A.0105	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13A.0202	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13A.0203	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13A.0204	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13B.0001	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13B.0002	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13B.0003	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13B.0004	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13B.0005	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13C.0001	10:24 NCR 3056		11:13 NCR 1040	*						

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4 NCAC 13D .0101	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0101	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0102	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0103	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0201	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0202	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0301	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0302	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0401	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0402	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0403	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0404	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0405	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0501	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0502	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0601	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0602	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0603	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0701	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0702	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0801	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0803	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0901	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13E .0902	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13F .0301	10:24 NCR 3056		11:13 NCR 1040	*						
4 NCAC 13F .0302	10:24 NCR 3056		11:13 NCR 1040	*						
COMMUNITY COLLEGES										
23 NCAC 02D .0325	10:24 NCR 3058			*						
			11:09 NCR 585							



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23 NCAC 02E .0203	10:24 NCR 3058		11:09 NCR 585	*						
23 NCAC 03A .0113	10:24 NCR 3058		11:09 NCR 585	*						
CULTURAL RESOURCES										
U/S North Carolina Battleship Commission										
7 NCAC 05 .0202	10:18 NCR 2398		11:04 NCR 188	*						
7 NCAC 05 .0203	10:18 NCR 2398		11:04 NCR 188	*						
7 NCAC 05 .0204	10:18 NCR 2398		11:04 NCR 188	*						
7 NCAC 05 .0207	10:18 NCR 2398		11:04 NCR 188	*						
ENVIRONMENT, HEALTH, AND NATURAL RESOURCES										
15A Public Notice										11:01 NCR 2
15A Public Notice										11:09 NCR 590
15A NCAC 01K	10:19 NCR 2506									
15A NCAC 01M .0101		11:06 NCR 368								
15A NCAC 01M .0102		11:06 NCR 368								
15A NCAC 01M .0201		11:06 NCR 368								
15A NCAC 01M .0202		11:06 NCR 368								
15A NCAC 01M .0301		11:06 NCR 368								
15A NCAC 01M .0302		11:06 NCR 368								
15A NCAC 01M .0303		11:06 NCR 368								
15A NCAC 01M .0304		11:06 NCR 368								
15A NCAC 01M .0305		11:06 NCR 368								
15A NCAC 01M .0306		11:06 NCR 368								
Coastal Resources Commission										
15A NCAC 07	11:04 NCR 183									
15A NCAC 07H .0104	10:24 NCR 3045		11:07 NCR 409	*						11:09 NCR 575
15A NCAC 07H .0106	10:16 NCR 1921		11:04 NCR 190	*						Notice Subject Matter
15A NCAC 07H .0208	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .0304	10:24 NCR 3045		11:07 NCR 409	*						11:09 NCR 575

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15A NCAC 07H .0306	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .0309	11:08 NCR 442		11:12 NCR 981	*						
15A NCAC 07H .1104	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1202	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1204	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1205	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1304	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1404	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1504	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1704	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1804	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1904	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .2004	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .2104	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07J .0102	10:24 NCR 3045		11:04 NCR 190	*						
15A NCAC 07K .0203	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07M .0301	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0302	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0303	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0304	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0305	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0306	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0307	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0308	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0309	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0401	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0402	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0403	10:16B NCR 1921		11:11 NCR 907	*						

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Environmental Management Commission										
15A NCAC 02	10:24 NCR 3045									
15A NCAC 02	11:04 NCR 183									
15A NCAC 02B .0223	11:02 NCR 75									
15A NCAC 02B .0223	11:03 NCR 109									
15A NCAC 02B .0224	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0227	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0229	11:03 NCR 109		11:09 NCR 572	*						
15A NCAC 02B .0231	11:02 NCR 75		11:10 NCR 824	L/SE						
15A NCAC 02B .0232	11:02 NCR 75		11:10 NCR 824	L						
15A NCAC 02B .0233	11:02 NCR 75		11:10 NCR 824	L						
15A NCAC 02B .0234	11:02 NCR 75		11:10 NCR 824	*						
15A NCAC 02B .0235	11:02 NCR 75		11:10 NCR 824	*						
15A NCAC 02B .0236	11:02 NCR 75		11:10 NCR 824	L						
15A NCAC 02B .0303	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0315	11:02 NCR 75		11:09 NCR 572	L						
15A NCAC 02D .0518	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0524	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0530	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0902	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0907	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0909	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0910	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0911	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0946	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .0954	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .1100	11:08 NCR 442									
15A NCAC 02D .1110	10:24 NCR 3045		11:08 NCR 472	*						

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15A NCAC 02D .1111	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .1402	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02D .1403	10:24 NCR 3045		11:08 NCR 472	*						
15A NCAC 02H .0610	11:08 NCR 442									
15A NCAC 02L .0106		10:19 NCR 2508								
15A NCAC 02L .0202	10:20 NCR 2591									
15A NCAC 02P .0402		10:19 NCR 2512								
15A NCAC 02Q .0102			11:06 NCR 350	*						
15A NCAC 02Q .0102	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0104	10:24 NCR 2400		11:08 NCR 472	*						
15A NCAC 02Q .0107	10:18 NCR 2400		11:08 NCR 472	*						
15A NCAC 02Q .0507	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0512	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0514	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0515	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0517	10:24 NCR 2400		11:08 NCR 472	S/L						
15A NCAC 02Q .0700	11:08 NCR 442		11:08 NCR 472	S/L						
NPDES Permits										11:06 NCR 317
NPDES Permits										11:07 NCR 406
<b>Health Services, Commission for</b>										
15A NCAC 13B .1627	11:08 NCR 442		11:13 NCR 1055	*						
15A NCAC 13B .1800	11:08 NCR 442									
15A NCAC 13C .0301	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0302	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0303	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0304	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0305	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0306	10:18 NCR 2317		11:06 NCR 357	*						



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15A NCAC 13C .0307	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 13C .0308	10:18 NCR 2317		11:06 NCR 357	*						
15A NCAC 18A	11:04 NCR 183									
15A NCAC 18A .0134	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0136	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0137	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0159	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0168	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0169	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0173	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0174	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0175	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0176	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0182	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0183	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0184	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0185	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0186	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0187	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0301	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0302	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0401	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0421	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0424	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0425	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0614	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0615	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0616	11:08 NCR 442		11:12 NCR 987	*						

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15A NCAC 18A .0617	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0618	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0620	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0621	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .0901	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .1301	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .1302	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .1319	11:08 NCR 442		11:12 NCR 987	*						
15A NCAC 18A .1805	11:04 NCR 183		11:09 NCR 576	*						
15A NCAC 18A .1814					Approve	04/18/96			11:04 NCR 209	
15A NCAC 18A .2601		11:01 NCR 24	11:05 NCR 273	*						
15A NCAC 18A .2701					Approve	06/20/96	*		11:08 NCR 536	
15A NCAC 20D .0243					Approve	04/18/96			11:04 NCR 209	
15A NCAC 21H .0111		11:06 NCR 371								
15A NCAC 21H .0113		11:06 NCR 371								
15A NCAC 21I .0101		11:07 NCR 422								
15A NCAC 21J .0101		11:07 NCR 422								
<b>Marine Fisheries Commission</b>										
15A NCAC 03	11:11 NCR 881									
15A NCAC 03I .0001	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03I .0005	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03I .0019			10:21 NCR 2737	*	Approve	05/16/96	*			
15A NCAC 03J .0202	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03J .0401			10:21 NCR 2688	*	Approve	05/16/96	*			
15A NCAC 03L .0102	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03L .0201	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03M .0202	11:03 NCR 110	11:11 NCR 938		*						
15A NCAC 03M .0503	11:07 NCR 407		11:11 NCR 938	*						

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15A NCAC 03M .0504	11-03 NCR 110	11-11 NCR 938		*						
15A NCAC 03M .0506	11-07 NCR 407		11-11 NCR 888	*						
15A NCAC 03M .0507		11-11 NCR 938		*						
15A NCAC 03M .0511	11-03 NCR 110	11-11 NCR 938		*						
15A NCAC 03R .0006	11-07 NCR 407		11-11 NCR 888	*						
15A NCAC 03R .0007	11-07 NCR 407		11-11 NCR 888	*						
<b>Parks and Recreation</b>										
15A NCAC 12B 1206	10-18 NCR 2317		11-12 NCR 985	*						
<b>Soil and Water Conservation</b>										
15A NCAC 06E .0002	11-08 NCR 442		11-12 NCR 979	*						
15A NCAC 06E .0002		11-12 NCR 1004								
15A NCAC 06E .0003	11-08 NCR 442		11-12 NCR 979	*						
15A NCAC 06E .0005		11-12 NCR 1004								
<b>Wildlife Resources Commission</b>										
15A NCAC 10B .0106	11-02 NCR 76		11-08 NCR 495	*						
15A NCAC 10B .0113	11-07 NCR 408		11-12 NCR 983	*						
15A NCAC 10B .0115	11-07 NCR 408		11-12 NCR 984	*						
15A NCAC 10B .0115	11-11 NCR 882									
15A NCAC 10B .0116	11-12 NCR 959									
15A NCAC 10B .0123	11-02 NCR 76		11-08 NCR 495	*						
15A NCAC 10B .0203	11-02 NCR 76		11-08 NCR 495	*						
15A NCAC 10B .0208	11-02 NCR 76		11-08 NCR 495	*						
15A NCAC 10B .0209	11-02 NCR 76		11-08 NCR 495	*						
15A NCAC 10C .0107	11-02 NCR 76									
15A NCAC 10C .0205	11-02 NCR 76		11-08 NCR 495	*						
15A NCAC 10C .0305	11-02 NCR 76		11-08 NCR 495	*						
15A NCAC 10C .0401	11-02 NCR 76									
15A NCAC 10C .0401	11-07 NCR 408									

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15A NCAC 10D .0002	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10D .0003	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10F .0102	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0103	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0104	10:19 NCR 2506		11:01 NCR 14	*	Approve	08/15/96	*		11:12 NCR 1006	
15A NCAC 10F .0105	10:19 NCR 2506		11:01 NCR 14	*	Approve	08/15/96	*		11:12 NCR 1006	
15A NCAC 10F .0106	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0107	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0109	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10F .0300	11:01 NCR 13									
15A NCAC 10F .0302	11:05 NCR 272									
15A NCAC 10F .0303	10:24 NCR 3057		11:06 NCR 355	*						
15A NCAC 10F .0305	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96			11:10 NCR 843	
15A NCAC 10F .0307	11:02 NCR 76		11:07 NCR 412	*						
15A NCAC 10F .0307	11:08 NCR 451									
15A NCAC 10F .0310	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96			11:10 NCR 843	
15A NCAC 10F .0310	10:24 NCR 3057		11:06 NCR 355	*						
15A NCAC 10F .0317	11:13 NCR 1039									
15A NCAC 10F .0339	11:13 NCR 1039									
15A NCAC 10F .0342	10:19 NCR 2506		11:01 NCR 14	*	Withdrawn/Agcy	07/18/96				
15A NCAC 10F .0348	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843	
15A NCAC 10G	11:01 NCR 13									
15A NCAC 10G .0100	11:02 NCR 76									
15A NCAC 10G .0102	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0103	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0202	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0203	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0206	11:01 NCR 13		11:07 NCR 412	*						



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15A NCAC 10G .0302	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0303	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0401	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0402	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0403	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0404	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 10G .0501	11:01 NCR 13		11:07 NCR 412	*						
15A NCAC 101 .0001	10:22 NCR 2829		11:04 NCR 191	*						11:03 NCR 104 11:04 NCR 182
15A NCAC 101 .0002	11:02 NCR 76		11:08 NCR 495	*						11:01 NCR 1 11:04 NCR 181 11:06 NCR 315 11:07 NCR 405 11:13 NCR 1038
Wildlife Proclamation										
Wildlife Proclamation										
<b>FINAL DECISION LETTERS</b>										
Voting Rights Act										
Voting Rights Act										
Voting Rights Act										
Voting Rights Act										
Voting Rights Act										
<b>GENERAL CONTRACTORS LICENSING BOARD</b>										
21 NCAC 12 .0204	10:22 NCR 2829	11:06 NCR 372	11:09 NCR 583	*						
21 NCAC 12 .0503	10:22 NCR 2829	11:06 NCR 372	11:09 NCR 584	*						
<b>GOVERNOR'S EXECUTIVE ORDERS</b>										
Number 95 - Eff. 04/24/96										11:05 NCR 270
Number 96 - Eff. 06/14/96										11:08 NCR 441
Number 97 - Eff. 07/12/96										11:10 NCR 817
Number 98 - Eff. 08/09/96										11:11 NCR 880
<b>HUMAN RESOURCES</b>										
10 NCAC 41P .0013	11:06 NCR 323	11:08 NCR 528	11:12 NCR 966	L						

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Aging										
10 NCAC 22	10:23 NCR 2956									
Child Day Care Commission										
10 NCAC 03U .0102		10:20 NCR 2593	11:10 NCR 819	S						
10 NCAC 03U .0604	11:03 NCR 109		11:09 NCR 571	*						
10 NCAC 03U .0700	11:08 NCR 449									
10 NCAC 03U .0704	10:19 NCR 2506		11:04 NCR 188	*						
10 NCAC 03U .0710	10:22 NCR 2829		11:04 NCR 188	*						
10 NCAC 03U .0901	11:08 NCR 449									
10 NCAC 03U .2510	11:08 NCR 449									
10 NCAC 03U .2606	11:08 NCR 449									
10 NCAC 03U .2701		10:20 NCR 2593	11:10 NCR 819	S						
10 NCAC 03U .2702		10:20 NCR 2593	11:10 NCR 819	S						
10 NCAC 03U .2703		10:20 NCR 2593	11:10 NCR 819	S						
10 NCAC 03U .2704		10:20 NCR 2593	11:10 NCR 819	S						
Facility Services										
10 NCAC 03	10:18 NCR 2399									11:11 NCR 888
10 NCAC 03R .3001		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
10 NCAC 03R .3001	10:23 NCR 2956		11:06 NCR 328	S/L/SE						11:11 NCR 888
10 NCAC 03R .3010		10:21 NCR 2699	11:08 NCR 452	S/L/SE						11:11 NCR 888
10 NCAC 03R .3020		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
10 NCAC 03R .3020	10:23 NCR 2956		11:06 NCR 328	S/L/SE						11:11 NCR 888
10 NCAC 03R .3030		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
10 NCAC 03R .3030	10:23 NCR 2956		11:06 NCR 328	S/L/SE						11:11 NCR 888
10 NCAC 03R .3032		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
10 NCAC 03R .3032	10:23 NCR 2956		11:06 NCR 328	S/L/SE						11:11 NCR 888
10 NCAC 03R .3040		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
10 NCAC 03R .3040	10:23 NCR 2956		11:06 NCR 328	S/L/SE						11:11 NCR 888

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10 NCAC 03R .3050		10:21 NCR 2699	11:08 NCR 452	S/L/SE						11:11 NCR 888
10 NCAC 03R .3050	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
<b>Medical Assistance</b>										
Disproportionate Share List										
10 NCAC 26B .0105	10:18 NCR 2398		10:22 NCR 2831	*	Approve	04/18/96	*		11:04 NCR 207	11:03 NCR 101
10 NCAC 26G .0707	11:08 NCR 450									
10 NCAC 26H .0506		11:02 NCR 77								
10 NCAC 26H .0506	10:21 NCR 2686									
10 NCAC 26H .0602	11:09 NCR 569	11:13 NCR 1062								
10 NCAC 50B .0202		11:10 NCR 841		S/L						
10 NCAC 50B .0404		11:10 NCR 841								
10 NCAC 50B .0409		11:10 NCR 841								11:06 NCR 316
10 NCAC 50D										
10 NCAC 50D .0101	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0102	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0103	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0201	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0301	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0302	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0401	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0402	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0501	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0502	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0503	10:24 NCR 3057	11:04 NCR 196								
<b>Medical Care Commission</b>										
10 NCAC 03C .6208					Approve	04/18/96			11:04 NCR 206	

## Mental Health, Developmental Disabilities and Substance Abuse Services

10 NCAC 14V .3400 11:08 NCR 449

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10 NCAC 14V .3800	11:08 NCR 449									
10 NCAC 14V .5600	11:08 NCR 449									
10 NCAC 15A .0100	11:08 NCR 449									
10 NCAC 45H .0200	11:08 NCR 449									
<b>Social Services Commission</b>										
10 NCAC 41F	10:23 NCR 2956									
10 NCAC 41F .0705	10:23 NCR 2956		11:03 NCR 111	L						
10 NCAC 41F .0706		10:21 NCR 2726	11:03 NCR 111	*						
10 NCAC 41F .0707		10:21 NCR 2726	11:03 NCR 111	S	Object	07/18/96				
10 NCAC 41F .0812		10:21 NCR 2726	11:03 NCR 111	*						
10 NCAC 41F .0813		10:21 NCR 2726	11:03 NCR 111	S	Object	07/18/96				
10 NCAC 41F .0814	10:23 NCR 2956		11:03 NCR 111	L	Object	07/18/96				
10 NCAC 41I .0100	10:17 NCR 2228									
10 NCAC 41I .0102	10:17 NCR 2228		10:21 NCR 2687	*						
10 NCAC 41P .0002	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P .0005	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P .0006	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P .0008	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P .0009	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P .0010	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P .0011	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P .0012	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 42A .0701		10:21 NCR 2728	11:10 NCR 823	S/L/SE						
10 NCAC 42A .0702		10:21 NCR 2728	11:10 NCR 823	*						
10 NCAC 42A .0703		10:21 NCR 2728	11:10 NCR 823	*						
10 NCAC 42B .1209		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42B .1210		10:21 NCR 2729	11:12 NCR 967	S/L						
10 NCAC 42B .1211		10:21 NCR 2729	11:12 NCR 967	*						



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10 NCAC 42B .2402		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42B .2403		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42B .2404		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42B .2405		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C .2010		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C .2011		10:21 NCR 2729	11:12 NCR 967	S/L						
10 NCAC 42C .2012		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C .3701		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C .3702		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C .3703		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C .3704		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D .1409		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D .1410		10:21 NCR 2729	11:12 NCR 967	S/L						
10 NCAC 42D .1411		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D .1827		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D .1828		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D .1829		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D .1830		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42V .0201		10:20 NCR 2597	11:03 NCR 111	*	Approve	07/18/96	*		11:10 NCR 843	
10 NCAC 42V .0802		10:20 NCR 2597	11:03 NCR 111	*	Approve	07/18/96	*		11:10 NCR 843	
10 NCAC 42V .0803		10:20 NCR 2597	11:03 NCR 111	*	Approve	07/18/96	*		11:10 NCR 843	
10 NCAC 49A .0002		11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 49B .0202		11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 49B .0310		11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 49B .0502		11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 49C .0107		10:18 NCR 2402								
<b>Vocational Rehabilitation Services</b>										
10 NCAC 20B .0204	11:08 NCR 450		11:13 NCR 1051	*						

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10 NCAC 20B .0205	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0206	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0208	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0209	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0210	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0214	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0218	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0222	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0224	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0226	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20B .0227	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20C .0603	11:08 NCR 450		11:13 NCR 1051	*						
10 NCAC 20D .0204	11:08 NCR 450		11:13 NCR 1051	*						
<b>INSURANCE</b>										
11 NCAC 12 .0551	10:18 NCR 2399		10:22 NCR 2831	*	Approve	05/16/96	*		11:05 NCR 283	
11 NCAC 16 .0703	10:18 NCR 2399		10:22 NCR 2832	*	Approve	05/16/96			11:05 NCR 284	
<b>JUSTICE</b>										
<b>Attorney General/Company Police</b>										
12 NCAC 021 .0101					Approve	04/18/96			11:04 NCR 208	
12 NCAC 021 .0206					Approve	04/18/96			11:04 NCR 208	
12 NCAC 021 .0210					Approve	04/18/96			11:04 NCR 208	
<b>Alarm Systems Licensing Board</b>										
12 NCAC 11 .0202	10:24 NCR 3057									
<b>Private Protective Services Board</b>										
12 NCAC 07D	11:10 NCR 818									
12 NCAC 07D .0201	11:10 NCR 818									
12 NCAC 07D .0504	11:10 NCR 818									
12 NCAC 07D .0701	11:10 NCR 818									

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12 NCAC 07D .0801	11:10 NCR 818									
12 NCAC 07D .0902	11:10 NCR 818									
State Bureau of Investigation/Division of Criminal Information										
12 NCAC 04E .0103	11:11 NCR 881									
LABOR										
Occupational Safety and Health										
13 NCAC 07A .0900	11:11 NCR 881									
13 NCAC 07F	11:03 NCR 106									
13 NCAC 07F .0101		11:03 NCR 119								
13 NCAC 07F .0201	11:03 NCR 106									
13 NCAC 07F .0201	11:09 NCR 568									
13 NCAC 07F .0301	11:03 NCR 106									
MEDICAL BOARD										
21 NCAC 3211	10:18 NCR 2400									
21 NCAC 3211 .0101	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0102	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0201	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0203	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			
21 NCAC 3211 .0301	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0302	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0303	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0401	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0402	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0403	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0404	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0406	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 3211 .0407	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96			11:04 NCR 221	
21 NCAC 3211 .0408	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96			11:04 NCR 221	

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21 NCAC 32H .0409	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0501	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0502	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0504	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0505	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0506	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0507	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0601	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0602	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0701	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0702	10:18 NCR 2400		10:22 NCR 2835	*	Object	04/18/96	*		Returned to Agency 6/20/96	
21 NCAC 32H .0801	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0901	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
21 NCAC 32H .0902	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*		11:04 NCR 221	
<b>NURSING HOME ADMINISTRATORS</b>										
21 NCAC 37D .0202		11:11 NCR 940								
21 NCAC 37G .0102		11:11 NCR 940								
<b>PSYCHOLOGY BOARD</b>										
21 NCAC 54 .2704					Approve	04/18/96			11:04 NCR 236	
21 NCAC 54 .2706					Approve	04/18/96			11:04 NCR 236	
<b>PUBLIC EDUCATION</b>										
16 NCAC 01A .0001					Approve	05/16/96			11:05 NCR 286	
16 NCAC 01A .0003					Approve	05/16/96			11:05 NCR 283	
<b>Standards Board for Public School Administration</b>										
16 NCAC 07 .0101	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0102	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0103	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0104	10:23 NCR 2957		11:09 NCR 576	*						



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16 NCAC 07 .0105	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0106	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0107	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0108	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0109	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0110	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0111	10:23 NCR 2957		11:09 NCR 576	*						
16 NCAC 07 .0112	10:23 NCR 2957		11:09 NCR 576	*						
<b>REAL ESTATE COMMISSION</b>										
21 NCAC 58A .0101	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0104	11:07 NCR 408		11:11 NCR 935	*						
21 NCAC 58A .0105	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0109	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0110	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0302	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0503	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .0504	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .1501	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .1502	10:22 NCR 2829		11:03 NCR 114	*						
21 NCAC 58A .1601	10:22 NCR 2835		11:03 NCR 114	*						
<b>REFRIGERATION EXAMINERS</b>										
21 NCAC 60 .0204	11:05 NCR 272		11:10 NCR 839	*						
21 NCAC 60 .0207	11:05 NCR 272		11:10 NCR 839	*						
21 NCAC 60 .0314	11:05 NCR 272		11:10 NCR 839	*						
<b>REVENUE</b>										
17 NCAC 01C .0504	10:20 NCR 2599								Object	08/15/96
17 NCAC 01C .0506	10:20 NCR 2599								held	08/15/96
17 NCAC 01C .0506			11:10 NCR 838	*						

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					Action	Date				
17 NCAC 05C .0102			11:03 NCR 113	*						
17 NCAC 05C .2101			11:09 NCR 582	*						
17 NCAC 06B .0612			10:24 NCR 3059	*	Approve	05/16/96	*		11:05 NCR 284	
17 NCAC 06B .3716			10:22 NCR 2833	*	Approve	04/18/96	*		11:04 NCR 211	
17 NCAC 07B .0118			10:22 NCR 2833	*	Approve	04/18/96	*		11:04 NCR 211	
17 NCAC 07B .1101			11:12 NCR 998	*						
17 NCAC 07B .1105			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1108			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1109			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1110			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1112			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1114			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .1123			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1602			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1602			11:12 NCR 998	*						
17 NCAC 07B .1701			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1702			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1702			11:12 NCR 998	*						
17 NCAC 07B .1802			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .1802			11:12 NCR 998	*						
17 NCAC 07B .2401			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .2601			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .3103			11:12 NCR 998	*						
17 NCAC 07B .3106			11:12 NCR 998	*						
17 NCAC 07B .4002			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .4004			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B .4008			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	

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					Action	Date				
17 NCAC 07B .4202			11:12 NCR 998	*						
17 NCAC 07B .4301			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .4408			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B .4501			11:12 NCR 998	*						
17 NCAC 07B .4902			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
Tax Review Board										11:02 NCR 72
Tax Review Board										11:06 NCR 318
<b>SOCIAL WORK, BOARD OF</b>										
21 NCAC 63 .0306		10:21 NCR 2739	11:03 NCR 118	*						
<b>SOIL SCIENTISTS, BOARD FOR LICENSING</b>										
21 NCAC 69 .0101	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0102	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0103	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0104	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0201	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0202	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0301	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0302	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0303	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						

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					Action	Date				
21 NCAC 69 .0304	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0305	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0306	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0307	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0308	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0401	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0402	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						
21 NCAC 69 .0501	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*						
			11:08 NCR 523	*						

## STATE PERSONNEL COMMISSION

25 NCAC 01D .2501	11:13 NCR 1062
25 NCAC 01D .2503	11:13 NCR 1062
25 NCAC 01D .2504	11:13 NCR 1062
25 NCAC 01D .2505	11:13 NCR 1062
25 NCAC 01D .2507	11:13 NCR 1062
25 NCAC 01D .2508	11:13 NCR 1062
25 NCAC 01D .2509	11:13 NCR 1062
25 NCAC 01D .2511	11:13 NCR 1062
25 NCAC 01D .2513	11:13 NCR 1062
25 NCAC 01D .2514	11:13 NCR 1062
25 NCAC 01D .2516	11:13 NCR 1062



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25 NCAC 01J .0613		10.23 NCR 2960			Approve	03/21/96			11-01 NCR 26	
25 NCAC 01J .0613										
SUBSTANCE ABUSE PROFESSIONALS CERTIFICATION BOARD										
21 NCAC 68	10:18 NCR 2401									
21 NCAC 68 .0101	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0102	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96			11-04 NCR 238	
21 NCAC 68 .0201	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96			11-04 NCR 238	
21 NCAC 68 .0202	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0203	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0204	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0205	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0206	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0207	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96			11-04 NCR 238	
21 NCAC 68 .0208	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0209	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0210	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0211	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0212	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0213	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0401	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0402	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0403	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0404	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96			11-04 NCR 238	
21 NCAC 68 .0405	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0406	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0407	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0701	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	
21 NCAC 68 .0702	10:18 NCR 2401		10.22 NCR 2850	*	Approve	04/18/96	*		11-04 NCR 238	

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21 NCAC 68 .0703	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0704	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96			11:04 NCR 238	
21 NCAC 68 .0705	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96			11:04 NCR 238	
21 NCAC 68 .0706	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0707	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
21 NCAC 68 .0708	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96			11:04 NCR 238	
21 NCAC 68 .0709	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*		11:04 NCR 238	
<b>TRANSPORTATION</b>										
19A NCAC 06B .0401	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0402	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0403	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0404	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0405	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0406	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0407	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0408	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0409	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0410	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0411	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0412	10:23 NCR 2957		11:05 NCR 279	S	<b>Object</b>	08/15/96				
19A NCAC 06B .0413	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0414	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0415	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0416	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0417	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
<b>Highways, Division of</b>										
19A NCAC 02D .0425					Approve	08/15/96			11:12 NCR 1006	
19A NCAC 02D .1101	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				

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19A NCAC 02D .1102	10:23 NCR 2957		11:05 NCR 274	*	Object	08/15/96				
19A NCAC 02D .1103	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*		11:12 NCR 1006	
19A NCAC 02D .1104	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*		11:12 NCR 1006	
19A NCAC 02D .1105	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*		11:12 NCR 1006	
19A NCAC 02D .1106	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				
19A NCAC 02D .1107	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				
19A NCAC 02D .1108	10:23 NCR 2957		11:05 NCR 274	*	Object	08/15/96				
19A NCAC 02D .1109	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*		11:12 NCR 1006	
19A NCAC 02D .1110	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*		11:12 NCR 1006	
19A NCAC 02D .1111	10:23 NCR 2957		11:05 NCR 274	*	Object	08/15/96				
19A NCAC 02D .1112	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				
<b>Motor Vehicles, Division of</b>										
19A NCAC 03E .0500	11:01 NCR 13									
19A NCAC 03E .0501	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0502	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0510	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0511	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0512	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0513	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0514	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0515	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0518	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0519	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03E .0522	11:01 NCR 13		11:07 NCR 416	*						
19A NCAC 03J .0101	11:11 NCR 882									
19A NCAC 03J .0201	11:11 NCR 882									
19A NCAC 03J .0306	11:11 NCR 882									
19A NCAC 03J .0307	11:11 NCR 882									

# CUMULATIVE INDEX

(April 1996 - March 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

19A NCAC 03J .0601 11:11 NCR 882





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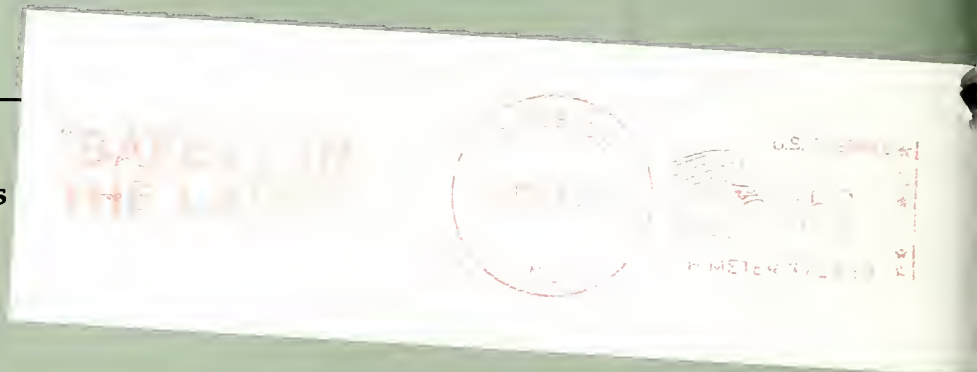
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